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MEMORIAL

OF

REUBEN M. WHITNEY,

TO THE

HONORABLE HOUSE OF REPRESENTATIVES U. S.

IN RELATION TO THE

CHARGES MADE AGAINST HIM, AS A WITNESS

BEFORE THE

COMMITTEE OF INVESTIGATION

INTO THE AFFAIRS OF

THE BANK OF THE UNITED STATES.

BY THE MINORITY OF THAT COMMITTEE.

AND BY A MEMBER OF THAT

MINORITY.

CITY OF WASHINGTON.

1832.

To the Honorable the House of Representatives of the United States.

The memorial of REUBEN M. WHITNEY respectfully sheweth—

That in the year 1822 your memorialist, then a merchant residing in the city of Philadelphia, was appointed by the vote of the stockholders, a Director of the Bank of the United States. That institution was then superintended by the man who had been called to sustain it at a period of great danger, and had regained, under his exemplary attention and good management, the confidence of the public.

Your memorialist continued to serve for the three years during which he was eligible, the first under the Presidency of Mr. Cheves, and the two last under that of his successor, and left the Board on the 1st of January, 1825.

He had endeavored to discharge his duty faithfully: Had become acquainted with the regulations and principles by which the affairs of the institution were administered; had been a member of several of the most important committees appointed by the Board, and had seen the great advantages of that strict order and regularity of proceeding, to which the success of the institution was chiefly attributable.

On entering upon these duties he had seen that all the concerns of the Bank were directed by a system of rules adhered to with the most rigid impartiality; that no power of making exceptions, or granting dispensations, no latitude of discretion was allowed to any of the officers; the President himself resolutely refusing on all occasions, the exercise of such powers by himself or others.

This Honorable House and the nation knows that it was for this purpose, to introduce and enforce, in the government of the Bank, such a system, a system of law and order, that such a man as Langdon Cheves was placed over it—and it is as well known that what the public thus expected of him, he fulfilled.

Upon his retirement, fears were entertained that such a system could only be upheld by such a man—that the natural tendency of such an institution to evade the salutary restraints imposed upon its proceedings, and the difficulty of finding a successor superior to the extraordinary temptations that would surround him, whose integrity no power could seduce and whose firmness no importunity or influence could bend, would gradually produce again the disorders from which it had been rescued.

Your memorialist commenced the second year of his services as Director under the present President of the Bank, as the successor to Mr.

Cheves, and was gratified to observe in him, and in all who were concerned in its government a determination to adhere to the due and regular course adopted for its proceedings. In support of this course, he endeavored, to the end of his term, to give every aid in his power, and felt and expresed generally his satisfaction with the administration of its affairs. Some irregularities, however, had been brought to his notice in the last year of his term. He had seen some indications of a more relaxed practice; and some deviations from rules which had heretofore been rigidly enforced.

During the Presidency of Mr. Cheves, the rules of the Bank required that every loan should be made at the regular meetings of the Board of Directors. This rule was inflexible, it yielded to no circumstances, there was no where any power of dispensation.—There was no committee or officer authorized, in any case, however safe or urgent, to depart from it. These rules continued during the term of service of your memorialist. No committee was appointed, no authority existed any where but in the Board, at its regular sessions, to loan, under any circumstances, to any person, the money of the Bank. Instances however did occur, and become frequent, of departure from this rule. Moneys were loaned to individuals out of the Teller's Drawer, on checks or notes secured by deposits of stock certificates, never sanctioned by or known to the Board, and of which no entries were made at the time of such loans on any of the books of the Bank. Your memorialist acquired the knowledge of the existence of such a practice, in the only way he could have acquired it, (no traces of it appearing on the books,) from the information of the Bank officers, who expressed their disapprobation of it, and stated it to be done under the sanction of the President.—This occurred in May, 1824. On examination at the time of receiving the information, he found it to be correct, and that money was then out of the Teller's drawer under such circumstances. He was also told of notes irregularly discounted between the Sessions of the Board and added to the work of the preceding discount day, and he was shewn two notes thus discounted and entered, which he knew had not been before the Board on the days on which they were entered. Of these two notes, and of two sums appearing to have been loaned from the Teller's drawer on a deposit of stock certificates, he took a memorandum in writing. He did not consider these things as heinous offences, as committed or allowed with any fraudulent or corrupt purpose, nor did he expect any loss to accrue to the Bank from these particular instances of deviation from the rules.—But he looked upon them as introducing a new and loose practice which might lead to danger, and of which he could not but disapprove, though resulting from no other motive than a desire to accommodate the customers of the Bank in cases of peculiar urgency, under a belief that such a power might be exercised by a sound discretion within safe limits. He did express this disapprobation to the President of the Bank. It could not be defended by the rules of Bank, and it was not defended, and it ceased. The books of the Bank shew when it commenced, how it progressed, and when it ceased. Your memorialist believed it would not occur again, nor did it.

to his knowledge. He served out his term, and left the institution with the same regard for its prosperity he had ever felt, and, notwithstanding the irregularities he has mentioned, with confidence in its security. He left the President on terms of the most perfect good will, without a doubt as to his honor, and though he had seen in him, as in these instances, less reluctance in assuming discretionary powers, and a greater disposition to extend the facilities of accommodation than had marked the undeviating course of his predecessor, yet he believed his motives to be pure, and trusted that his course would be prudent. He, no doubt, expressed himself, both then and afterwards, in general terms of respect both of the President and the administration of the Bank, though he had mentioned, and certainly with disapprobation, in a confidential manner, to one or two of his friends, the circumstances he has just referred to, about the time of their occurrence. This regard and confidence at and after the expiration of the term of service of your memorialist, he presumes was mutual; for being at that time engaged in a very delicate and confidential agency of great importance, for the institution, he continued for a month after his term, to render his services, and that gratuitously, till the business was accomplished. His connexion with the Bank was thus dissolved, and the continued engagements of a large and increasing business, now occupied his time and his thoughts. To these days of labor and care, succeeded those of struggle and calamity. The misfortunes to which those engaged in extensive commerce are peculiarly exposed, assailed and overwhelmed him. His most anxious efforts were now directed to save from the wreck of his fortune, the means of rendering the most ample justice in his power, to his creditors, and to maintain, through this season of trial and adversity, as he trusts he has done, a name to which no dishonor should attach. The settlement of past concerns was connected with the necessary cares for the present and the future, seeking for new employments and pursuits, and striving to keep alive the hope, that renewed exertions might lead him and those who depended upon him, to the light of better days.

These are the trials and cares through which your Memorialist has been passing since his separation from the Bank of the United States, leaving little leisure for his thoughts to turn to subjects beyond his immediate engagements, or to recall the recollection of past transactions, long since become of no concern to him. In such a situation, when looking back through eight years thus employed, if he shall not remember with perfect accuracy all the circumstances attending a fact which he states, what would be thought of the justice, to say nothing of the charity, of imputing to him wilful and deliberate falsehood?

So confined to his own urgent concerns, have been throughout this time, his views and his labors, that he has had neither leisure nor inclination to engage in those schemes and speculations which interest the whole community. Even the all absorbing subject of politics has neither occupied his time or awakened his feelings. He has lived in the city of Philadelphia during these sixteen years, and has never even voted but twice, and that several years ago, and has taken no part whatever on either side

of the political parties that agitated all around him. Within the last year or two he could not but hear the contests of opinion in relation to the Bank of the United States, the prevailing topic of conversation. He could not but see and hear the attacks made upon that institution, and its defences.—He could not but form an opinion upon some of the subjects thus discussed. He heard charges of irregularity and gross mismanagement.—He thought he saw, in what he heard of its mode of administration, that the vigilant and undeviating adherence to a system of wise rules had been discontinued—and he believed he saw in the two last triennial reports a want of candor and fairness in statement and a concealment, if not a perversion, of truth, that argued most unfavorably of its condition and government. These charges on the Bank brought occasionally to his recollection some impressions made by the transactions he has here mentioned as occurring while he was a Director. Finding by accident, among some old papers in a pocket-book, the memorandum to which he has before alluded, and which he did not imagine, till he thus saw it, had been preserved, he was enabled to recall more distinctly the facts it indicated, and the circumstances attending them. It could not but occur to him that the instances of loose and irregular practice which common report now attributed to the Bank, were the consequence of that relaxation of its rules and exercise of unauthorized power which he had witnessed in the instances noted in his memorandum, and which he believed, at that time, had ceased. It was natural that, in conversations upon the subject of the Bank in the city of Philadelphia, where men of all opinions daily met and conversed, that your memorialist, who had been a Director in the Institution, should occasionally take part—that he should mention the circumstances here detailed, and shew and explain, to the best of his recollection, the memorandum he had then recently discovered. This he did at a time when there was no suggestion or expectation of an enquiry into the affairs of the Bank.

That some of the opponents of the Bank should think his statement upon this subject, of sufficient importance to be added to other instances which they supposed they had discovered of a disorderly and unfair course of administration in the Institution, might have been expected, although your memorialist when he communicated these recollections to those with whom he conversed upon the subject, had no such object in view, nor any other object further than the general one of saying what he thought and believed he knew, in reference to a common topic of conversation, in which he conceived he had as free a right to engage as his neighbors and fellow citizens. The communication, however, he found, did excite the attention of others, and he was often called on, particularly when an investigation into the management and state of the Bank began to be expected, to repeat his statements, and shew the memorandum. Under such circumstances it could create no surprize, nor justify any injurious suspicion towards him, that some of the active opponents of the Institution, who were seeking for information as to its course of administration, should communicate to those to whom the investigation was committed, that your memorialist, a former Director of the

Bank, was in possession of facts, which he had freely mentioned in general conversation, important to be investigated. Your memorialist felt himself under no obligation of concealment, and though he had no wish to present himself as an accuser of the Bank, was still willing to repeat anywhere and to any person, what he had before stated. When, therefore, the Chairman of the Committee brought him a letter of introduction from a respectable gentleman, representing that your memorialist had been a Director of the Bank, and was acquainted with circumstances which might be proper subjects of enquiry to the Committee, (which was done without any connivance or knowledge of your memorialist,) he felt no hesitation in communicating to the Chairman all he recollected of the transactions, and shewing and explaining to him the memorandum he had made at the time of their occurrence.

He had, however, no expectation at this time, that he should be examined as a witness.—He believed that the Books of the Bank and the officers of the Bank would necessarily disclose every material fact within his knowledge. He knew that the entries indicated by his memorandum at the dates there stated, must show, as to the notes, that they were not discounted by the Board, and as to the stock loans from the Teller's drawer, that such sums were entered at the dates stated, that no such previous entries would be found of the loans of the same description made before, and he believed none such would appear, after he had objected to the practice, to the end of the year which completed his term of service. Nor did he doubt, if this documentary evidence should be thought to require corroboration or explanation, that the officers of the Bank, who had called his attention to these transactions, who knew of this loose practice, and expressed their disapprobation of it, would at least remember these instances of its occurrence, and their communication of them to him. It was not for him however, but for the Committee to determine whether his evidence should be required. He was served with a subpœna and attended, and stated upon oath, to the best of his recollection, all the facts that had come to his knowledge, in reference to these transactions, and every circumstance attending them. He was not aware that, in standing before the Committee as a witness on that occasion, there was any thing uncommon. He had spoken long before he ever imagined there would be an enquiry, without reserve, of what he knew in relation to a subject of general interest, and when those, whose duty it was to prosecute the enquiry, having understood that he had stated facts supposed to bear upon the objects of enquiry, desired to know the truth and nature of the transactions he had spoken of, he had communicated his knowledge, and they, deeming his evidence material, had legally demanded it. He supposed that this was the ordinary course of obtaining testimony, and that it could neither subject the Honorable Committee nor himself to reproach or suspicion.—His disclosure to the Chairman and another member of the Committee before he was summoned, and all the circumstances under which it was made, were frankly and readily avowed by him, and every question asked, in reference to it, answered without hesitation, and

confirmed by the statement of the Chairman.—(See pages 117 and 118 of the documents.)

Under such circumstances, called forth by the lawful authority of this Honorable House, to give testimony before a Committee of its appointment, your memorialist has appeared and given his evidence, appealing to God for its sincerity. For the evidence thus given, he has been assailed in a manner and by a power that would overwhelm any thing but the truth. An Institution that can boast that the capital, the monied institutions of the whole country, and the government itself, are dependant upon its operations, feels its existence at stake, and like a giant struggling for life, raises its hundred arms of power, and calls upon its host of retainers to crush the humble individual that it singles out as its assailant.

Among the friends thus summoned to the rescue, are those to whose voices the nation has been accustomed to listen—men skilled and experienced from their youth, in all the warfare of controversy, familiar with its deadliest weapons, ardent in every engagement, and elated with former triumphs.—Men who, in the heat and strife of their conflicts, forget to consult their own honorable feelings, hear not the pleadings of charity or justice, and wage a war of extermination against every opponent.

Nor is this all the force that has been arrayed against your memorialist. His assailants, besides all their other advantages, bring to their aid against him, to add weight to their denunciations, the influence of high station. He is attacked from an eminence. He stands as an obscure citizen, before a high tribunal of justice, brought there as a witness, to give evidence before it, in a cause which it is to try. And he is assailed and denounced as a perjured "*informer*," "*stimulated*" to *invent* "an artfully devised story," as "a blasted monument of the speedy and retributive justice of Heaven." And this is the language, not of the Counsel in the cause, not of the advocate of the party against whom he has been called to give evidence, but of some of the Judges!

One of thsee Judges, too, so averse to make investigations into the conduct and characters of men who were not called before them, or might not have sufficient opportunities of self-defence—so shocked at his associates inquisitorial scrutiny into men's characters, occupations, and dealings—shewing "an over-anxious sensibility to imputations upon the good name of other men"—Surely the reprobation of men, filling so high and solemn an office, and which must have been so afflicting a duty to the delicate sensibility and tender mercies expressed in the judgment, must fall with peculiar aggravation upon a single, unprotected, undefended witness. In such an onset, your memorialist may appear to have been borne down. He doubts not that, every where, since the publication of the Report of the minority of the Committee, and of the additional report of the minority of that minority, he has been considered by those who had nothing else to refer to but what appeared in those papers, as prostrated forever. He has passed a painful interval between the public accusation of the Judges, and the publication of the evidence in the cause, by which the accusation must be tried. The documents are now to be seen, and this

Honorable House and the nation may judge of their import, not be partial extracts, and sophistical reasonings, and obvious mistakes, not by the opinions reported by others, under the influence of wishes and feelings too plain to be concealed, but by a candid and impartial examination of the evidence itself.

He stands forth, therefore, now (the earliest opportunity afforded him) to defend himself and his evidence. And he presents himself here, before this honorable House, by whose authority he was compelled to appear as a witness, and under whose authority, by the men to whom it has been delegated, he has been assailed.

Under such circumstances he trusts it will not be thought unbecoming the dignity of this House to grant him a patient hearing—and further, by such mode of enquiry as it may see proper to direct, to examine into the charges alleged against him, and redress the wrongs he has sustained by obeying its authority, from those who represented it.

He fears not the issue. Knowing that he has acted with fairness and sincerity, he will state his evidence, and sustain it from the documents against all attempts to discredit it. Your memorialist might confidently appeal to the violence of his opponents to prove their injustice. It is said that his own story refutes itself, and is positively contradicted in every essential particular by five witnesses.— If so, would they not have felt some pity for the wretch thus discredited and disgraced?—Would not something like forbearance and compassion to one so lost and degraded, be seen even in the language of condemnation, from magnanimous men, particularly when discharging a judicial duty? Does a judge, even, when passing sentence upon the most notorious criminal, call names? And again—if so plainly confounded and discredited by the evidence, why come out with violent denunciations and long and labored arguments to prove that which the evidence alone sufficiently demonstrated? It could be no pleasure to Honorable gentlemen to gibbet a convicted malefactor, to hang up "a blasted monument" of the justice of heaven. Would there not have been more justice, whatever their own opinions might have been and however plainly expressed, to have forborne a learned and ingenious argument, upon evidence neither accessible to the public, nor the House, nor the accused, than thus to forestall and prejudice public opinion? Why too the attempt to represent him as an informer, as "stimulated to give evidence?" Had the done any thing more than every man does, who talks about what he knows and discloses it when enquiry is made of him. Had he done this with any secrecy, with any thing either of passion or of interest to influence him? Were no enquiries made of the witnesses on the part of the Bank, as to the facts they might know until they were sworn? What is an informer? How does a man act who is *stimulated* to give false testimony? Surely the Honorable gentlemen who have so freely applied such epithsts to your memorialist cannot know the character of a crime so abhorrent to their own high principles. An informer is one who makes no disclosures in public, apprizes not the victims he betrays, of their danger, but goes in darkness, requires stipulations and gives his disclosures in

confidence, under some pretence of conscience, to those who may have the power to punish or reward him. How he is *stimulated* to such a course generally appears when it is known, or is seen shortly afterwards, in the confidence of new friends, or in rewards that could only have been thus earned.

None of these things appear in the communications of your memorialist. They were made in the day, in public, to all indiscriminately with whom he conversed, at times and under circumstances when he could have no reason to conjecture that any thing in the shape of accusation would result from them. And who was to *stimulate* him, and how, and why, in such a course? If he was willing to fabricate a story against the Bank was there any one to reward him? And if there was, would not the plot have been conducted with more art and concealment?

In truth, this charge bears almost as strongly upon the Chairman of the Committee to whom his commmunications were made, as upon himself. For if he is a stimulated informer, does not the contamination of his crime attach to those who sought and used him?—and so indeed it is insinuated. From the journal of the committee and the report made by the Honorable member who constitutes the minority, we perceive that gentlemen had considerable scruples upon the subject of seeking for evidence against the Bank. He seemed to think it improper that persons should be asked what they knew, before they were called on to be sworn—that the investigation should be conducted, not by collecting witnesses known to be acquainted with the transactions, but by calling without discrimination upon all persons within their reach, or, possibly, by calling upon none. While the committee were thus to conduct the enquiry, holding no communication with those whose testimony was to charge the Bank, and not permitted to ascertain from whom such testimony was to be obtained, was the same non-intercourse to subsist between the Committee and the officers and witnesses who were to defend the Bank?

It would seem to be the opinion of this Honorable member of the Committee, that they were thus restricted only as to matters of charge, and that in every thing operating to the defence of the Bank, they were unrestrained. For where did that honorable member acquire his very minute acquaintance with the private affairs of your memorialist, so as to be able to interrogate him, as he did, upon the history of his life and the state of his affairs, unless he either made enquiries into these particulars from those he supposed likely to know, or had such disclosures voluntarily made to him?

However made, he must either place all such persons in the rank of *informers*, *stimulated* to make their disclosures, and himself in close and contaminating connexion with them, or acknowledge the injustice of his imputations upon your memorialist and the members of the Committee with whom he communicated.

There was one question put by that honorable member bearing upon this subject, which your memorialist cannot forbear to notice. He was asked whether the communication to Mr. Clayton and Mr. Cambreleng was made "on his own motion," or if he "had been solicited to make it," (page 117) to which he answered that "he did

not recollect whether it was voluntary, or whether he was asked to make it."

He waited on the Chairman, expecting to give the information he possessed upon the business the committee were investigating, as freely as he had always given it to others, and whether in the course of the conversation he had waited to be asked for his information, or gave it without being asked, he had thought very immaterial, and did not remember.

The question, however, seems to imply an impropriety in making such a communication "on his own motion." Your memorialist would have been quite willing (if such had been his recollection) to have taken the responsibility of so making the communication.

If he believed that certain irregularities had occurred in the management of the Bank which had been brought to his notice, and that it was important that the public and the government, so greatly interested in that institution, should be made acquainted with them, would he be thought culpable for going before the Chairman of a Committee of Congress, appointed to enquire into its situation, and communicate such knowledge "on his own motion?"

If a citizen becomes acquainted with the official misconduct of men in public employment, and believes it important to the public interest that they should be exposed, instead of deserving censure, he is entitled to the thanks of those whom he serves by the discharge of such a duty. A concealment under such circumstances of public transgressors is not the part of a good citizen or a frank and honest man.

Your memorialist could appeal to an instance of very high authority, to justify him in such a course, which might have occurred to the recollection of that honorable member of the Committee, and which, if he had fortunately remembered it, would have prevented him from attempting to discredit a witness by proving that he had made a voluntary disclosure of the offences of others against the public good.

When that gentleman, on a memorable occasion, discovered the treasonable designs of certain disaffected politicians with whom he had been associated, and saw the danger to which his country was exposed by their plots, he did not wait to be solicited, "but on his own motion," *stimulated* by patriotism alone, communicated to the Chief Magistrate of the nation, the existence of the iniquitous combination he had detected. Has he not merited and received his reward for this signal service? It was soon seen that missions abroad and honors at home, were to be trusted to the pure hands which disdained fellowship with the enemies of their country, that instead of being stigmatized as an informer, he was to take high rank as a patriot. Will he claim merit for himself for such service, and after the full enjoyment of its rewards, make it a reproach against another? With such an instance before him, your memorialist might well be *stimulated* to the voluntary exposure of the transgressions he had witnessed. The service he might thus render could not, he is aware, be compared in importance to that which the high station and talents of the honorable member enabled him to accomplish, but

he would have the merit of having followed, at however great a distance, an illustrious example.

Your Memorialist, having now, as he trusts, removed an impediment to a fair hearing in the prejudice that may have been excited by his being represented as an informer, will call the attention of the House to his evidence.—

On his first examination, in page 116, he stated that "Sometime in 1824, Mr. Willson and Mr. Andrews mentioned to me that some transactions had taken place in the Bank in which T. & J. G. Biddle were concerned, which they were not willing should exist without some member of the board being informed of them. I asked what they were. They replied that T. & J. G. Biddle had been in the habit of coming to the Bank and getting money, and leaving certificates of stock, which represented it, in the First Teller's drawer, without paying interest. They also stated, that the Messrs Biddles had had notes discounted for them by the President, which were entered on the books of the preceding discount day. I asked them what sums there were of the kind in existence at that time. They went with me to the First Teller's drawer, and we found one sum of $45,000, dated 25th May, and one for $24,000, dated 26th May. We then went to the discount clerk's desk, and found one note at fifteen days, dated 13th May, for $20,000, of T. Biddle's, and one note of Charles Biddle's, dated 21st May, at sixteen days, for $38,-319. The two former sums represented cash, and the two latter notes, which they stated to me, had been discounted by order of the President. Of all these I made a memorandum (now produced) at the time, which corresponds with the entries now in the books now shewn to me.

Immediately after examing the books, I came into the President's room and communicated to him what had been communicated to me, and what I had learned by examining the books. After stating this, I desired that nothing of a similar nature should occur while I was a Director of the Bank. He told me there should not.

I directed the officers to enter on the books the money that had been loaned from the Teller's drawer, and which was represented by stock certificates. It was done; I did not see it done, but I know it was done. Subsequently I saw this entry of "bills receivable," which I knew was the entry made for that purpose. In the entry on the semi-weekly statement, or state of the Bank, under date of 27th May, under "bills receivable," the sum of $69,000 is entered, which is the exact amount of the two sums of $45,000 and $24,000, represented by stock certificates in the Teller's drawer."

The following is a copy of the memorandum referred to:—

"May 25, - - $45,000.
26, - - 24,000.
May 13, 15 days, - $20,000, collateral,
21. C. Biddle, - 38,319, 16 days, 5–8 June."

This is the testimony which has been branded as an "artfully devised story," "a fabrication utterly destitute of truth or foundation," and the question now, in which your memorialist is principally concerned, is this:—Has he been guilty, as charged, of wilful falsehood in devising this "artful story?"

Whatever may be thought of the facts to which he has deposed, he thinks it will be impossible for any fair mind to come to such a conclusion. No man commits such a crime without some motive, and none can be conceived for this. It seems to be supposed that some temptation has been held out to him by the politicians or the party who are opposed to the Bank, and that it would be an "acceptable service" to such persons to furnish evidence of mal-administration in its officers. But besides the objection to such a conjecture arising from the circumstance of your memorialist having never had any interest or concern with any politicians or any party, and the extreme improbability that any such persons should seek him, or he them, for the purpose of bargaining for such a fabrication, the time and circumstances under which his statement was first made, render such a supposition absurd and incredible. There can be no doubt that his memorandum was made in 1824, while he was a Director, and that he has had no access to the books or documents of the Bank since.—It is also as clear that this memorandum was shewn to Mr. Hunt about the time it was made, (see his deposition in page 140,) and in connexion with it, a statement then made to that gentleman, conforming, with the exception of one circumstance, to the evidence now given by your memorialist. This fabrication, then, was devised in 1824, when it was not possible to foresee that this investigation, or any investigation, or any state of things could arise, in which such a fabrication could be an "acceptable service" to others, or of any benefit to himself. To suppose that any man, without some object then in his view, should devise a story like this, then lay it by, and keep it for eight years before he attempts to dispose of it, is still more absurd.

Again, it is said to be an "artfully devised story;" and if the conjectures about it be true, that it was so long in maturing, and had, or might have had, the help of the politicians to perfect it, who are supposed to have stimulated its production, it ought to have been artfully devised. But does it appear so? It would not require much art to see that in the details of time, place and circumstance attending the facts meant to be substantiated, by a devised story, care should be taken (as it easily can be) not to be too particular,—a precise reference to dates should be avoided, and above all, to third persons as being present and acquainted with the facts. Nothing of this art appears in this evidence; great particularity is observed in the statement, references to dates readily given, and fearlessly made to men who, he must have known, if the story was false, would be able and willing to contradict him. By appealing to such men for what they told him and had seen with him, he was giving, most unnecessarily, the means of assailing his evidence, if he knew it to be false. Such an appeal alone sufficiently proves that he believed it to be true, and believed they must confirm it.

But your memorialist will not only demonstrate the sincerity of his evidence, he will maintain its truth. Not in every particular, he admits. He allows he was mistaken in his recollection of these occurrences in some respects: it would have been strange, after such a lapse of time, if he was not. Yet have these mistakes of recollec-

tion, as few and inconsiderable as could have been expected from any man after such a time, and under such circumstances, been seized upon and magnified into conclusive proofs of deliberate and wilful falsehood.

It must be admitted that a witness, with the fairest intention, may be mistaken in a date, or in stating one circumstance to have occurred at the same time, or immediately after the occurrence of another, when it may have been a few days, or even a few weeks afterwards. So in stating a communication made to him by another person, he may honestly think that it comprehended a particular fact or omitted a particular fact, in which he may be mistaken. The application of such a test as this, would impeach any evidence that could be given upon recollection, even of events far more recent than those to which your memorialist has deposed. It has been applied with rigid severity and great appearances of triumph to him. "A spirit of predetermined hostility, uncontrolled by a liberal sense of justice, prying for flaws and hunting for exceptions, may gratify itself, and swell with exultation at its own sagacity in discovering an error," but it will be in the power of your memorialist to expose the injustice of such a test, and to show how its application would operate upon the testimony of those who are pretended to have discredited him. The "*flaws* and *exceptions*" thus discovered, have been industriously singled out and exaggerated into matters of great importance, considered as constituting the substance of all the charges, and therefore by refuting these, the whole of the evidence is boldly asserted to have been overthrown.

Thus the President of the Bank thinks "the dates of this story are its *essence*," [page 142,] and concludes that a witness is altogether discredited and disgraced, if it can be proved that he has assigned a wrong or impossible date to a fact. And the report of the member of the minority deems "the use of the money without interest" to be "the *quintessence* of the charge," and that, if this particular be not maintained by the proof, the whole evidence is to be taken for an "artfully devised story," and needs no other refutation.

Your memorilist believes that when his evidence is fairly examined it will be found to contain something more than what has been thus represented as its *essence* or its *quint-essence* which, instead of being thus conveniently refuted, is confirmed, beyond a doubt, by the documents and testimony exhibited.

He undertakes to maintain, in confirmation of his statements, from the documents and evidence now published, the following positions:

1st. That information was given to him, when Director of the Bank, in the year 1824, by one or more of the officers of the Bank, of improper practices and violations of the rules of the Bank, committed under the authority of the President, and without the knowledge of the Board.

2nd. That this information was well founded; and that this appears in the three following particulars:

1. The purchase, by the President, of bills of exchange from Thos Biddle, on terms which had been rejected by those authorized by the rules of the Bank to make such purchases.

2. The allowance of interest upon deposits to T. & J. G. Biddle, by the President, without the knowledge of the Board, and after similar applications had been made by others to the Board, and refused.

3. The allowing to T. & J. G. Biddle, loans on stock certificates from the Teller's drawer, and discounting notes for them without authority, and without the knowledge of the Board, by the President, in the instances noted on the memorandum of R. M. Whitney.

And 3dly, that this information and the interference of R M. Whitney in consequence ofthem, changed the course of practice, and checked, for a time, these irregularities.

1. That the information mentioned under the first head was made to your memorialist, is abundantly confirmed.—Thomas Wilson, Cashier of the Bank from 1819 to 1826. (page 112,) states that "he may have mentioned to some one, that, in consequence of his great facilities as broker, it was proper to be careful that Mr. Thos. Biddle did not derive a personal profit from his transactions with us."—He further says, (same page,) "I remember now the circumstance is brought to my mind by the enquiry, that, on one occasion, Mr. T. Biddle offered us some bills on Virginia, at a higher rate than we were willing to pay : the President and myself therefore declined taking them. Some time after, Mr. Biddle having in the mean time tried to sell them in New-York, brought them back to us. The President, contrary to my opinion, agreed to take them." "This circumstance, he remembers, to have mentioned to one or two of the exchange Committee."

"He mentioned it to Mr. Whitney, one of the leading members of the Exchange Committee".

In page 113, he states, "there were two instances of allowance of interest to Mr. T. Biddle on deposites. I think one was about $1,600. The books will show it. Mr. Andrews made the entry, and can explain it. I recollect distinctly the circumstancos connected with it. Mr. T. Biddle presented to Mr. Andrews an account current, in which the Bank was charged with interest on deposites from day to day. Mr. Andrews asked me, if I had passed the account? I told him I knew nothing of the transaction, and advised him to consult the President about it. He felt some delicacy about it, and I did it. The President directed it to be allowed. I recollect it distinctly, because it was the only instance, besides the other I have mentioned, but the details of which I cannot recollect." He further says, in same page—"The deposites were made in the ordinary way. The amount, to the best of my recollection, exceeded one hundred thousand dollars, on which the interest account commenced ; and the funds to their credit were used at their pleasure. The interest account continued, I believe, forty-one days. It was not regarded by me as a loan to the Bank till the interest account was rendered, and the explanation was given by the President ; *nor was it known by the Directors.*" He further states, (page 114,) "The President did not state to me any special ground. He stated to me nothing to distinguish this from an ordinary deposite : but my impression was, that it was because at that timo there was a pressure on the Bank. I mentioned this matter, I think, to Mr. Beck,

and *perhaps to Mr. Whitney.*" He further states, that "he has no recollection, and does not believe, that the explanations now made by the President, (which had been just read to him,) were made at the time."

He says also, (same page,) "The matter of allowing interest on deposites was several times discussed before different Boards. Applications to that effect were made by Mr. Prime of New-York, and McEwen, Hale and Davidson, of this city, and refused. These were, I think, before the allowance to Mr. T. Biddle." The same witness (in page 126,) states, "that I mentioned to Mr. Whitney that Mr. Biddle had loans on stock security, *I have no doubt.* I have said he had these facilities, and I cannot say that *I was pleased with such transactions*, though such facilities were allowed to many beside Mr. Biddle."

It must be remembered, that, at the period of the transactions here referred to, the rules of the Bank gave no authority to the President, nor to any person but the Board of Directors, to loan money in any manner, or to allow interest on deposites—which latter the Board had been applied to to do, and had refused.

These rules were enacted by the Stockholders, and had never been changed. And these rules, during the Presidency of Mr. Cheves had been strictly observed. No instance of these loans on deposits of stock had occurred until after Mr. Biddle became President.—(Pages 126-27.)

Here then were practices in direct violation of the rules, introduced into the Bank, and they were transactions with which the Cashier "*was not pleased.*" He attributes them to the President, and informs, as he states, Mr. Whitney of two of them, and *perhaps* of the other, which other he also thinks he mentioned to Mr. Beck.

This part of his statement, Mr. Beck confirms, (pa. 128) and "thought it proceeded from irritation," as he considered that "a coolness existed between the President and Cashier shortly before the latter left the city for N. Orleans." The communication to Mr. Beck, he states to have been made "just before he went to N. Orleans." This was in 1826. The communications to your memorialists being made while he was a Director, must have been before the year 1824. It was therefore before this coolness, of which indeed Mr. Wilson seems never to have been conscious, as in his testimony (in page 127) he states that he never was on unfriendly terms with the President.—Whether Mr. Wilson's not *being pleased* with some of the transactions of the President, and taking the liberty of saying so to a Director, gave the President the opinion which he began then to form of the incompetency of a Cashier, who had been found competent during all the time of his predecessor, and occasioned the *coolness* and subsequent removal of that officer to an equally responsible and important office in New Orleans, has not appeared in the investigation.

That this information was given to your Memorialist by some officer of the Bank, scarcely required proof. For, how else could he have obtained a knowledge of transactions, some of which appeared no where, on any of the books of the Bank, and the others he could never have discovered without some person to refer him to the entries.

The testimony then, to which he has now referred maintains his first position, that he was informed of these improper practices and violations of duty, committed under the authority of the President, and without the knowledge of the Board.

It may be said that Mr. Wilson's denial, (page 126) that he "would not have *made a complaint* to Mr. Whitney of the conduct of the President," and his assertion "that he was on those terms with the President, that he would have spoken directly to him," disprove his having made these communications to your memorialist. But this answer of Mr. Wilson must be reconciled with his admissions, that he did state these things, and that he was not pleased with them.—That he expressed this displeasure, when he mentioned them, is not denied by him; but on the contrary, as Mr. Beck thought he mentioned them with irritation, he must have expressed his displeasure at them. It may be reconciled by understanding that Mr. Wilson, though he mentioned them, and expressed his displeasure at them, did not consider it as making a formal complaint of the President's conduct. However this be, his testimony clearly and positively affirms, that he gave this information to your memorialst.

The 2nd position—that this information was well founded, is sustained by the evidence already quoted, except as to the last particular, (the unauthorized discount of notes) and is denied by no other witness. The President of the Bank has not denied, though he does not remember, the purchase of the bills of exchange stated by Mr. Wilson, under the circumstances he has mentioned, from Mr. T. Biddle, and has not attempted to shew any authority for the act.

That stock loans from the Teller's drawer were made without the authority or knowledge of the Directors, is admitted by the President to have been then "*a practice* in the Bank," though "since discontinued"—(page 125)—and is also proved by T. Biddle and every other witness.

As to the allowance of interest on deposites to Thos. Biddle, by the President, without the knowledge of the Board, and after "the matter" had been several times discussed before different boards," and "applications to that effect" had been made by others and "refused," two instances are distinctly proved. They are remembered by Mr. Wilson.—One of them was for $1,600, and he "distinctly recollects the circumstances connected with it." When it was claimed, Mr. Andrews, the Assistant Cashier, "was advised to consult the President about it." "He felt some delicacy about it," and Mr. Wilson did it, and the President "directed it to be allowed."

There is no denial of this, nor any explanation of the allowance. The other instance mentioned by Mr. Wilson is attempted to be explained and justified, and the justification and explanation are so extraordinary that they deserve a particular notice. They are given in the deposition of Mr. Thos. Biddle—(page 135)—and of the President of the Bank—(page 483.)—The sum thus allowed, as appears in the account annexed to Mr. Thos. Biddles deposition, was $739 for interest on $100,000 deposited by him on 8th October, 1825, and the balances that remained of it, until November 23d, when it was finally checked out. That gentleman's account of it

—(page 135)—is this: "That was a year of very extraordinary pressure. Mr. Baring's phrases on the subject, were of an unexampled character, and the contagion of them diffused itself through the United States. Large sums of bills were returned protested from England. It was very desirable on that account therefore, to be strong in specie funds. The President of the Bank told me he wished to strengthen himself immediately; to get him all the money I could, and bring it to the Bank. At that time, I had in my hands large resources received from foreign hands, which were known to be in my charge. I obtained for the Bank considerably upwards of $100,000, but I am not precise as to the sum. The account now in the Bank that I furnished, will show it. I continued adding to this sum daily, what I was enabled to obtain.—The account was, I think, settled on the principle of allowing interest on the balance which I had in Bank. I do not think the interest I received was an adequate compensation for the use of the money, or equivalent to the uses for it, which presented themselves on all sides. Mr. Wilson made some little objection, or rather I should say, he had some difficulty in knowing to what to charge the account when I presented it. He did not seem to make the slightest objection to its propriety. He went to the President's room—I am not aware, nor did I ever know, what passed between him and the President. He came out and gave his entire assent to it."

The account given by the President of the Bank—(page 433)—is, if possible, still more interesting. A very lively description is given of "a disastrous period in the financial history of England," occurring in the "fall of 1825," owing to "wild speculations in the American mines, and wilder speculations in American cotton," which "recoiled upon England and spread over it extensive ruin." The speeches of Mr. Huskinson and other members of Parliament, are quoted, showing that "in the middle of December of that year, there existed for two or three days, a state of affairs in the money market, which rendered it impossible to procure money, even upon the most unobjectionable security."—"That during 48 hours it was impossible to convert into money, to any extent at least, the best securities of the Government." Another member is quoted, who says "that within the last week, not one man in ten could negotiate upon the exchange the most undeniable bill," "that prices had fallen 20 per cent., and that probably, there had been a reduction in consequence of the recent shock of 50 per cent. in the currency of the country."

He gives also an extract from Mr. Senor, the professor of political economy, shewing the imminent danger of the Bank of England at that period, and that its failure was only prevented by the "unexpected arrival of about 200,000 sovereigns from France, and the discovery in the cellars of the Bank of 800,000 one pound notes, and the intervention of a Sunday."

The President then states (page 484,) that "*the very same storm which thus broke on England, passed over this country a few weeks before*"—that "he certainly never felt any uneasiness about the

Banks of this country except on that occasion"—that "in the midst of the difficulties of the community, two circumstances contributed to increase them: the one was a heavy demand for specie for the use of the British Government in Canada: the other was a similar demand for specie to pay the instalments of the new Bank, then recently established in New Orleans."—This inspired "a general distrust and alarm, and by the middle of November, all the indications, which it was impossible to mistake, denoted an approaching panic, (being "the very same" which had brought the broker thus to strengthen the Bank on the 8th October,) which would have been fatal to the country." "If the strength and wealth of England could not withstand such an alarm, its effects on this country would have been incalculable." "That moment seemed, to him, to be the very crisis of the country, to be met only by some decided and resolute steps to rally the confidence of the communiiy."

The President then details the measures he took to meet this crisis—that "*he* did not hesitate on the course which *his* duty prescribed"—that *he* went immediately to New York, "sought the gentleman who was preparing to draw specie from the Banks," and gave him drafts—that *he* then "endeavored to ascertain the real state of things," &c.

This it appears was the fearful state of things, which induced the President to call to the aid of the Bank and the country, Mr. Thomas Biddle, and to make the arrangement with him, of which the Cashier had so ignorantly spoken with dissatisfaction, and which he thus explains and justifies, by which the Bank and the country were saved by the payment of $739 for interest on Mr. Biddles's deposites!

"It was, (the President says—page 436,) while engaged in preparing for that interposition, while we were endeavoring to strengthen the Bank, so as to enable it to relieve the general distress, that anxious to avoid pressing on tbe community by a reduction of our loans, *and finding the disposal of the stocks impeded by the general depression, I* told the gentleman who was charged with the sales, (Mr. Thomas Biddle,) that if he could anticipate them by placing funds immediately at the service of the Bank, he should be allowed interest on them, and this sum of $739 *was the whole expense of the measure.* In the state of the country, and for the purposes which it was destined to accomplish, it seemed to me, as it still seems to me, a judicious and fortunate one."

It is certainly worthy of all praise if such a public calamity was averted by means so simple and at so small an expence—and it is consoling to think that public calamities of the most awful nature can be so cheaply guarded against. Great praise has been given by an honorable member of the Committee to the President of the Bank of the United States for its "bold, decisive, but judicious proceeding" in meeting this crisis and allaying this "memorable panic of 1825," though the orator does not seem to think that this great deliverance was accomplished altogether, if at all, by the "judicious and fortunate" expenditure of this $739. He rather points to another part of the Bank's proceeding as the cause of it, which certainly

seems, at least as worthy of being so considered. This is his account of it:

"There can be no higher eulogium pronounced on the management of the Bank of the United States, than to state the fact, that during the period of general consternation and disaster in the commercial world, not a single Bank in the United States failed, that had been considered solvent. It was by the sale of these government stocks, of which a portion of the Committee have thought proper to complain, *and this alone*, that the Bank of the United States was enabled to throw some *ten or fifteen* millions of capital into the active operations of the Bank, in the form of discounts, and thus save the Banks from failure, and the commercial community from general bankruptcy and ruin."

This undisputed violation of the rules of the Bank, and arbitrary assumption of a power not belonging to him, by the President of the Bank, which the Cashier had mentioned, *with irritation*, did then take place. Two instances of it are remembered and proved. One of them, and that the least, is attempted to be explained and vindicated. There was a *panic* and a *crisis*, and a "*general depression*," which "impelled" the "disposal of the stocks." The "judicious measure of getting the broker who was selling the stocks for the Bank, to *anticipate the sales* by his deposits of $100,000, and allowing him $759 for this service, was fortunately thought of by the President, and adopted to meet the great emergency. Fortunately, also, a broker was found sufficiently disinterested in this season of "general depression," to let the Bank have the use of his money for 6 per cent., when opportunities of getting more for it "presented themselves on all sides."

Now what will be thought of all this vivid picture of a *crisis*, a *panic*, and the general bankruptcy and ruin of the commercial world, averted by this *judicious* and *fortunate* measure, if it shall all be shewn to be a mere dream, a delusion of the imagination.

This your memorialist will now undertake to do, and if he shall accomplish it, he cannot but think that it will be considered as a far greater mistake, and far less excusable than any which are relied on in his statements and averred to be sufficient to discredit his whole testimony.

He will shew that the President's account, and the broker's account of this transaction are fallacious throughout—that no such aid was required or given to the Bank as they suppose by this arrangement—that it was an advantage only to the broker—that there was no such *crisis*, *panic* or *general depression* in the country, nor any where but in their own imaginations.

The amount furnished by Mr. Thos. Biddle, and on which the interest was allowed, is ascertained by his account annexed to his deposition. It appears by this, that although at that time "he had in his hands large resources received from foreign hands, which were known to be in his charge," and "obtained for the Bank considerably upwards of $100,000," and "continued adding to that sum, daily, what he was enabled to obtain," yet the sum so deposited, and so added to "daily," most unaccountably never increased.

There is something not very intelligible in this transaction. The President, as we have seen in his evidence, "finding the disposal of the stocks impeded by the general depression," told the gentleman who was charged with the sales, "that if he could anticipate them by placing funds immediately at the service of the Bank, he should be allowed interest on them." This being an advance of funds on interest, would seem to be a loan, and yet the President [page 359] says, in answer to a question relating to this transaction, "I was not aware of having stated that the Bank was compelled to resort to a temporary loan in 1825. The circumstance mentioned is not, I think, of that description."

Nor is it more easy to understand the nature or extent of the *storm, panic*, or crisis, which has been so feelingly described, and which gave the President of the Bank "the only uneasiness he ever felt about the Banks of this country." It occurred in England in the middle of December, and arose from wild speculations in mines and in cotton, and "the very same storm which thus broke on England, passed over this country a few weeks before." "Just as the difficulties were commencing, the Government paid off, on the first of October, a loan of seven millions." How a storm, arising from wild speculations in England, and breaking on that country in the middle of December, came to pass over this country, on its way thither, more than two months before, requires some explanation. However great the storm, also, it might be expected, that the Government's paying off, just as it occurred, a loan of seven millions, would have had some effect in assuaging it. Besides which, it appears in page 279, that $7,489,000 were at the credit of the Government in the Bank in the course of the same month. This could hardly have produced either a *crisis*, or a *panic*, or a *general depression:* and yet no cause is stated as having produced such effects, except the payment of this loan, and the speculations and storm in England in December.

And, in truth, no such effects were produced. There was neither *crisis, panic*, nor *general depression*. Certainly there was none such as "impeded the sale of stocks." For on this very 8th day of October, 1825, on which this advance to the Bank is said to have been made by Thos. Biddle on interest, it appears, from the sales of stock, (in pages 60 and 61,) that there was sold for the Bank upwards of $113,000 of 4½ per cent. stocks at par! On the 7th, there was sold near $50,000; and on the 6th, upwards of half a million at par. If that statement is still further examined, it will be seen that between the first of October and the fifth of December, a period of little more than two months, and which must include the season of "this memorable panic" and "general depression," there was sold by the Bank of the United States, 4½ per cent. stock, $2,074,900 90:—

of which, 1,911,500 90 were at par;
16,000 00 at ¼ premium;
49,000 00 at ⅛ discount;
25,000 00 at ⅛ premium; and
73,400 00 at ½ discount, and that to T. & J. G. Biddle!

If such sales, at or about par, of a stock bearing 4½ per cent. interest, could be made, where was the *general depression impeding the*

sale? "The price current of Bank stock," is said, in one of the Reports of the minority, to be "the thermometer of public confidence;" and the price current of sales of Government stocks is at least as unerring an index of the state of commercial confidence.

During the *storm* in England, it appears from the authorities quoted by the President in his evidence, that "it was impossible to convert into money, to any extent at least, the best securities of the Government." If this "very same storm had passed over us" in October, how came it not to produce the same, but the very contrary effects?

Whatever therefore may have been the state of the Bank, it is plain there was no crisis, panic or depression in the commercial community. Money must have been abundant when capital was invested at 4½ per cent. It could not have been a very great favor to advance money at such a time to the Bank of the U. States at 6 per cent. And when the Bank could so easily sell 4½ per cent. stock at par, and had still better stocks which would have commanded a premium, it is not easy to see how the anticipation of such sales, by taking an advance at 6 per cent., was either *fortunate* or *judicious.*

If there was any pressure any where at this time, it could have been on the Bank alone. It had to pay off the Government loan of seven millions, and it had used the deposites of the Government, either in discounting or in the purchase of Government stocks—having increased their Government stocks within the year then past, from 10 to upwards of 20 millions. This put the Bank into a state in which it never ought to be—a state of necessity to sell out its stocks; and it is well for it that there was neither *crisis*, nor *panic*, nor *depression*, to impede its sales. One of the answers of the President to the interrogatories of the committee would, however, show that he did not think such a situation disadvantageous to the Bank. He is asked, (page 359)—

"If the Bank had not employed its funds in Government loans, (without the power to sell the stocks,) would it not have been better prepared to meet the crisis you have referred to, growing out of the speculations of 1825?" And he answers—

"The Bank has never employed its funds in Government loans, which it had not the power to sell: and so far from being better prepared for the crisis, without the loan, *it was the loan* which assisted the Bank to overcome the crisis more readily." This surely takes away all pretext for the Bank being under any necessity, at such a time, to take money at 6 per cent., and shows that there could be no advantage from such an arrangement, except to the lender of the money.

There is then no foundation for the explanation attempted of this transaction; there is no such extremity of peril to the country, if there was to the Bank, to justify the President in thus assuming the Dictatorship.

If, however, this imagined state of peril had really existed, did it supersede the laws of the Bank and the power of the Directors? Were they not to be consulted at such a *crisis?* The President commenced his statement of those great operations, by which the country and the

Bank had been saved, with an apology for being obliged, in making it, to speak so much of himself. And he was compelled to tell the Committee where *he* went, and what *he* did, how *he* did not hesitate on the course which *his* duty prescribed—how *he* sought the gentleman who was preparing to draw specie &c., and gave him drafts—how "*he* then endeavored to ascertain the real state of things"—then "*he* told the gentleman who was charged with the sales, that if he would anticipate them &c., he should be allowed interest," and how this measure "seemed to *him* a judicious and fortunate one." The pain of all which might have been spared, if the President had remembered that there was such a thing as a Board of Directors, to which all these operations might have been referred, and by whose directions they ought all to have been accomplished.

It may then, and must be concluded, that the information of the Cashier was correct. Interest was allowed by the President to Mr. Thomas Biddle on deposites, without the knowledge of the Board, and after they had refused similar applications; and he has made the transaction worse, by an attempt to explain and justify it by statements shewn to be entirely fallacious.

There is nothing else under this head to be sustained (the stock loans from the Teller's drawer being admitted to have been "*the practice*") except the discounting, in the same manner, without the knowledge or authority of the Board, of the two notes mentioned on the memorandum.

Your memorialist engages to put this matter beyond doubt. He will shew that the information given to him, and which, after examination, induced him to put these two discounted notes on the memorandum he produced, was correct: that they were discounted without authority.

First let it be seen what was the authority, according to the rules of the Bank then in force, by which they should have been discounted.

There appears to be now, and has been for some time, a Committee appointed by the Board, called the Exchange Committee, who are authorized. in the intervals between the sessions of the Board, to make discounts. But when these notes were discounted, and throughout the year 1824, and always before, there was no committee so authorized, and no such authority delegated to any person.

This circumstance, so important to the enquiry, seems to have been overlooked by the President and the officers of the Bank, in giving testimony upon this subject. Mr. Burtis, the book-keeper, in page 131, after stating that "the 11th day of May, 1824, was the regular discount day," was asked to "explain the reason why a note, to run fifteen days, discounted for T. & J. G. Biddle, for $20,000, appears to be entered, after the book was closed for the regular discount day, and discounted on the 13th May, instead of the 11th?" Answers thus, "I can say no more than that it was directed to be put there by some of the officers, Mr. Andrews, I presume, as he generally hands me the notes. It came regularly into my hands, as all other notes. I believe that no notes are ever handed to me but such as are authorized by the Board, *or the Exchange Committee.*" So also the President, in page 125, after stating that "he can recall no circumstance whatever connected" with these discounts, adds that "it is,

however, the general practice of the Bank, where loans are made *in the intervals between the Board days*, to annex them to the work of the preceding discount day."

Now, the singular appearance of these two notes on the discount, or offering book, cannot be accounted for by supposing it to have occurred by the discounts being made, *in the interval between tha Board days*, by the Exchange Committee, according to the present rules and practice, if there was no such rule or practice, nor Exchange Committee, or other person authorised to discount, in these intervals.

That this was the case cannot be denied, and has not been denied. Mr. Wilson, in page 113, is asked whether "during Mr. Cheves's administration, any notes were ever discounted by the Exchange Committee? and was not all discounting of notes done by the Board of Directors on the regular discount days?" And he answers that "all notes discounted were discounted on the regular discount days by the Board."—(page 113.) So, Mr. Andrews, in page 122, is asked "if he knew of any authority having been given by the Board to any Committee to make discounts, during the years 1822–3 and 4? and answers "No." And again, asked "if any loans or discounts were made during those years, to his knowledge, except by the Board," answers "No."

All, therefore, that remains to be done to sustain the position now taken, of the irregular and unauthorized discount of these two notes in May 1824, is to shew that they were not discounted by the Board of Directors. And this can be fully and plainly shewn; and when it is, as it now shall be, shewn, the opinions and convictions, of some of the officers who have been examined, that the discounts were regularly made, will appear to have been mistaken opinions and convictions, which even they can no longer entertain when they are reminded that there was then no such authority to discount in the intervals between the board days; and when they shall have examined and understood the entries on the books of the Bank, and considered the manner in which the business of discounting notes was then conducted.

That all, however unacquainted with banking transactions, may understand this, it is proper in the first place to shew how this business of discounting was conducted. When the Board meets for this purpose, a book, called the offering book, is placed before them, made out by the officers of the Bank, headed with the date, containing a numbered list of all such accommodations asked for, stating the names of the parties, the amounts required, the dates and times. &c. While the Directors are in session, notes not known to the officers, and of course not noted in the offering book, are sometimes offered, and sometimes also leave is then asked for notes not presented, and noted on slips of paper. The Board acts on all these offerings, and the offering book, with the notes agreed to be done marked, and with any such notes or slips of paper as may also have been agreed to, is then returned to the discount clerk, who, after this, adds up in one column the whole work of the Board, comprehending all done on the offering book, as made up for the Board, and all done by them on notes presented while in session, and on leaves asked and agreed to,

and noted on slips of paper, and this is called "closing the offering book," and closes the discount work for that day. This is done after the Board adjourns, generally during banking hours of that day, and sometimes, as some of the officers state, not until the next day. But whenever it is done, it comprehends every thing that in any way has been done by the Board. This mode of proceeding is detailed in the evidence of Charles Lehmon, and appears in pages 555 and 556.

Now let this book, thus *made up* and *thus closed* be examined. The 11th of May 1824 is the regular discount day, and the book for that day, in which should appear all that the Board in any way discounted or agreed to discount on that day, appears to have been *closed* without any entry of the note for $20,000 discounted for T. and J. G. Biddle. But an entry does appear, after the book was thus *closed* of the discounting of such a note, and is plainly dated as done on the 13th and not the 11th, which 13th was not a board day. How, when, and by whom was this discount made? It was not on the offering book when made up for the Board.—It was not done while they were in Session, for then, whether done on the note itself then offerred, or on a leave asked and noted on a slip of paper, it would have been added to the other work, at the time of *closing* the book. It was not then done by the Board, nor on the 11th, but on the 13th, when there was no board, nor any authority, any where to do it.

Further the note is dated on the 13th and payable in 15 days from that date. This note then could not have been discounted on the 11th by the Board, but was discounted on the 13th without authority.

Look now at this same book for the 21st of May 1824. In the same manner, after the work of all discounts made, in any way, by the Board on that day was added up and the Book thus regularly closed, there is entered a note of Charles Biddle for $38,319 as discounted for T. and J. G. Biddle dated the 15th of May [page 132] having 15 days to run, as stated in the memorandum, due 5th and 8th June. Now the question is, when and how was this discount made? The very appearance of the entry, as in the other case after closing the book, ought to be sufficient to shew it was not done among the work of that day, the 21st under which it is put down in the book. Further if done on the 21st. and it fell due, as it did, on the 5th and 8th June it would have 18 days to run. But it was discounted for 16 days only, and as having 16 days to run. It was therefore evidently discounted when it had 16 days to run, and therefore not on the 21st. but two days afterwards, when there was no board, and was therefore done without authority.

Your memorialist having now shewn that he was made acquainted, as a Director, by an officer or officers of the Bank, of improprieties in its management, sanctioned by the President, and committed without the knowledge of the Board, and that the information so given, was correct, will now proceed to the 3d proposition which he has undertaken to maintain, viz: that his interference, in consequence of this information, changed the course of practice, and checked, for a time, these irregularities.

It is here that a direct conflict is seen between the testimony of the President of the Bank, and that of your memorialist, the one denying

what the other has asserted. It may be thought that the high standing and character of one of these witnesses must give him a credit outweighing that of an humble individual; and this, no doubt, is greatly relied on. It is a short and easy way of proving which is wrong.

The ordinary way of ascertaining the relative credit of witnesses whose statements are at variance, may perhaps be more troublesome, but it is certainly more just. This generally requires something more than shewing that one of them is a man in a high official station. Something should be shewn as to both, to establish such a superiorty.

It has been reported to this Honorable House, by a minority of the Committee, that the evidence given by your memorialist to the circumstance, as to which he has been contradicted by the President, is utterly false, and discredits his whole testimony; which has been therefore represented as a *fabrication*, and as contrived to destroy the reputation of an honorable man.

It can be no light thing to be so charged. More debasing crime could not be imputed to a witness: and your memorialist trusts and believes that this Honorable House, and all who are concerned in the investigation of truth, will require something more than opinion and suspicion before they will join in this condemnation. These opposing witnesses are both men, and equally entitled to be fairly tried by the just rules of evidence. What are those rules? How is a witness to be discredited?

He may be assailed on the gound of bad character. The witness who would be base enough to devise an artful fabrication, with the view either of injuring an honest man, or of acquiring compensation for his falsehood, can scarcely have fallen at once, into this depth of depravity. It contradicts an acknowledged axiom in morals to suppose it. Your memorialist has lived, as he has before stated, in a re-respectable and intelligent community for the last sixteen years, and has made no secret of his occupation and residence before that period. In these sixteen years he has experienced the vicissitudes of life, has borne the trials of prosperity and adversity. The member of the minority, in his own report, states, with great particularity, the incidents he had learned in the life and fortunes of your memorialist, shewing to how rigid a scrutiny he had been subjected, and that no charges could be brought against him, but that he had once lived in Canada, and had been unfortunate in business, and concludes his account of him by saying that, "of his present standing, in the community, no evidence was taken by the Committee." It may be presumed that those who were thus curious as to his past life, would make some enquiries as to his *present standing:* and if any discovery had been made to his prejudice, if any person could have been found to deny that he was an honest man, entitled to credit, can it be believed that he would not have been produced?

He did not desire witnesses to be called—none such could be needed. The anxiety manifested to destroy him, and the unfair efforts made to accomplish the purpose, and his assailants not venturing to impeach his character, where it must be known to them, is stronger for him than the testimony of thousands; for it shews his enemies to be themselves conscious that his *present standing* is such as cannot be safely attacked.

Accordingly, the attempt to discredit him is to be put upon other grounds. He is contradicted. The President of the Bank has pronounced his statement of what passed between them, to be "totally and absolutely false."

Here then is an issue made up.—Your memorialist has averred his statement to be true. The President, that it is false.

Your memorialist conceives that he has a right to enter upon the trial of this issue, upon a footing of perfect equality.

The testimony of a private citizen, if he is an honest man, stands upon equal ground with that of any man, however great in power or high in office. As to any motives of interest, or feeling that may affect the credit of witnesses, your memorialist has the advantage. Suspicion may insinuate that he has been "stimulated to give evidence" by the sordid motive of a bribe, or the malignant desire to blast the reputation of another, without a single circumstance to show that he had any interest to tempt him, or any resentment to gratify. But all will allow that stronger motives both of feeling and interest, to influence a witness, to impair his recollections, and give color to his impressions, cannot be imagined, than those which (if the President of the Bank be like other men) must have been felt by him.

There is one view of the contradiction between those witnesses, always deserving consideration in such a case. The one swears affirmatively to the substsnce of a conversation. He swore that he did go to the other party, that he stated his objection in plain terms to a practice which he had learned was introduced into the Bank, contrary to its rules, insisted that it should not be continued, and was told that it should not.

Now on what ground does the President of the Bank place his denial of such an occurrence. "None such (he says) ever took place."

Is this saying more, or can he say more than that he does not recollect it?

He thinks he can—he has satisfied himself that what the witness imputes to him "is wholly inconsistent with his character," and that he must have recollected such an occurrence if it ever had taken place. But this is by reasoning, not by facts or recollection. And he may not reason cerrectly: may have satisfied himself (often no difficult matter when desirable to do so) by incorrect reasoning. We must then examine the argument by which he has reasoned himself into the impression that if such a conversation had taken place, he must necessarily have remembered it. He has admitted—(page 141)—the peculiarity of his situation, as rendering it "difficult in ordinary occasions and in matters of indifference to contradict" what may be stated to have passed between himself and a person coming into his room eight years ago.—But he puts his power of contradicting the statement of your memorialist on this occasion, expressly on the ground of your memorialist's having thereby "imputed to him *conduct wholly inconsistent with his character*," and of having "spoken to him in a strain entirely different from the uniform tone of his constant demeanor during all their intercourse."

This reasoning has not only satisfied the President. The minority of the Committee seem to be satisfied. They state that the President, on the day when your memorialist was examined, "being on oath, said that he was utterly astonished at the testimony of the witness, and could only oppose to it his solemn declaration, that there was not one word of truth in it from the beginning to the end. He added, that from the relation in which the witness stood to him, he would have sunk into the earth sooner than he would have dared to come to him with such a remonstrance as he pretended to have made."

Your memorialist does not doubt the minority of the Committee having heard this solemn declaration from the President, *on the day on which your memorialist was examined*, although he did not hear it, and it was not written down as his evidence, as he certainly should have required it to be, if he had heard it.

From all this, it appears that the President had no recollection of the conversation—that he thought it imputed to him conduct "*wholly inconsistent with his character*"—that your memorialist would sooner have "*sunk into the earth than have dared to come to him with such a remonstrance*"—and that therefore (this is the reasoning) no such conversation could have taken place.

Now suppose it is made to appear that the President, being much astonished, and having no little feeling and interest inclining him to disbelieve it, seing that it was connected with other things proved by the books (as will hereafter appear) took a hasty and exaggerated view of it, as impeaching his character and imputing to him a gross and dishonorable offence, and therefore reasoned himself into the conviction that it was impossible it ever could have occurred, and that if it had, it was impossible he could have forgotten it: and suppose all this was erroneous, that it conveyed no such imputation, and was no such dreadful remonstrance as he considered it, but such an occurrence as might take place in a Bank between a Director and a President, without any violation of decorum or good feeling, then all the foundation for this reasoning will be taken away, and there will be nothing left, in contradiction of your memorialist; but that, unfortunately, the President of the Bank does not remember the occurrence.

What then was it, that amounted to such an imputation and such a remonstrance, as required to be thus indignantly repelled?

Why some things had been introduced as practices in the management of the Bank, by the President, or sanctioned by him, unknown to the Directors and disapproved of by the Cashier. The Cashier mentions them to an old and active Director.

They are found on examination to be so. This also is proved.—The Director speaks to the President on the subject, remonstrates, it is said. What more did this impute to the President than the truth? that he had permitted these irregularities? not from corruption, perhaps from easiness of temper. If he had permitted them, as he certainly had, it did not "impute to him conduct wholly inconsistent with his character." He might have been very indignant at such an imputation, if it was not true. But if it was, as it has been shewn to be, true, and not quite so gross an imputation as he imagined it, what could he say to it, but what he did—that it should

not occur again. Surely there was nothing in such a communication either improper for a director to make under such circumstances, or for a President to exercise, and to receive without offence. Even a Cashier, and an incompetent Cashier, sent to New Orleans for his incompetence, as being a fitter place for an incompetent Cashier than Philadelphia, even he tells us that if he had a complaint to make on any subject, he would have made it, not to Mr. Whitney, (this too is the Cashier's reasoning,) but would himself have spoken directly to the President. (page 126.) If a Director discovered such a *practice* in the Bank, as the President has been obliged to admit, did at that time prevail, though since discontinued, it was his duty to mention it, put a stop to it, and not to "*sink into the earth rather than dare to go to the President with such a remonstrance.*" Whosoever, therefore, shall believe that the President had sanctioned those irregularities, (and who can doubt it, who examines the evidence already referred to?) may well believe that they might be objected to, by a Director, and the subject mentioned to the President without considering it an indignity, and remembering it for eight years as an imputation upon his character.

The case then, thus far, may be considered as resting upon the possitive evidence of your memorialist, and the non-recollection of the President.

But it is, fortunately, in the power of your memorialist to adduce the confirmatory evidence of strong circumstances to show that his statement is substantially correct. This he now proceeds to do.

Let it be remembered that all the witnesses prove, and the President (page 125) admits, that there was in 1824, a *practice*, since discontinued, of loaning money on a deposite of stock certificates "to save time and labor," out of the Teller's drawer. This sort of loan and the *practice* in relation to it, it becomes important to understand. As far as the President describes it to us, (page 125,) it would seem to have been done, saving "the time and labor" of an application to the Directors, and so it is described by the other witnesses.

Mr. Cowperthwaite, the second Assistant Cashier (who, by the way, it may be observed, is relied on as contradicting and discrediting your memorialist) gives an account, in page 129, of an account kept in the Bank under the head of "Bills receivable."

This, he says, "his situation gave him a full knowledge of."—"It was raised in 1822, and has been continued ever since. It was an account raised for the purpose of keeping temporary loans separate from the Discounts, and has been continued ever since for that purpose." This representation is contradicted by Mr. Wilson's statement in page (113,) that the practice of Mr. Cheves, during his administration, which was in 1822, "was to let no one have money, unless regularly discounted by the Board of Directors."—It is also contradicted by Mr. Wilson in page (126,) who says that prior to Mr. Biddle's being President, "he knows of no instance of such loans out of the Teller's drawer."

It is also contradicted by Mr. Andrews in page (130,) who says "he is not aware, nor does he recollect of any loan made by an officer of the Bank, which has been chargeable to Bills receivable."

It is also contradicted by Mr. Patterson (page 134,) who says "the entries of bills receivable were not designed to be memorandums of the amount of money leaned on deposites of stock in the Teller's drawer."

It is also contradicted by the account itself in page (506,) which contains no entries of any such temporary loans in 1822, or ever afterwards, till 25th May, 1824. It is also contradicted by Mr. Cowperthwait himself, in the next answer he makes (page 130.] He is there asked--"In the account of Bills receivable, did you enter the amount of loans made on deposites of stock certificates, counted as cash by the Teller, prior to 25th May, 1824?' If yea, give the date and amount of such loans." And he answers, "*No—We did not do it* prior to that date, nor ever have done since."

This contradiction, however, is again contradicted in the next answer. For he is there asked, "are the entries in May 1824, of two sums of *bills receivable*--namely $45,000 and $24,000 in the books of the Bank, the regular entries of the *bills receivable*, and such as had been usual since 1822"—and he answers "Yes !"

Notwithstanding Mr. Cowperthwait's confusions upon this subject, it is plain from all the other witnesses, and occasionally from himself, and more particularly from the account as exhibited, that it never was intended or used for entering these stock loans or temporary loans from the Tellers's drawer, prior to 25th May, 1824.

Nor is it pretended that there was any other account kept, on any of the books of the Bank of such loans before that date. The practice was to make them without any application to the Directors, and to enter them no where but on checks, which were put with the certificates of stock in the Teller's drawer (page 132) where they were considered as substituted for the amounts taken out in cash. The account annexed to Mr. Patterson's (the Teller's) deposition (page 134,) shows the receipts for interest, received in such loans out of his drawer, before 25th May, 1824, and none of them are entered on the account of *Bills receivable*, or any where else. They only appear, after they are paid, in an interest account. —— Now, on that day, the 25th May, 1824, such a loan, out of the Teller's drawer, is, for the first time, seen entered on any of the books of the Bank : and it is entered on this account of Bills receivable--which never, in any instance, had been before used for such a purpose. How happened this ? How came the officers of the Bank thus suddenly to change their former practice in regard to these temporary loans ?--and charge them to this account, when they had always made them before, without charging them there or any where ? Had the Directors interfered, (as they well might, if they knew of so loose a practice,) and ordered these loans to be put where they could be seen ? This is not pretended, and the minutes of the Board, or the recollection of some of the officers or Directors would have shown it. And it is more likely, if such a matter had been brought before them, that they would

have ordered the instances of this irregular practice to be entered no where, but to cease altogether. Did the President of the Bank discover and forbid it, or the officers of their own motion, and without any reason for it, change a practice? Neither of these is or can be pretended. Nor is any satisfactory reason attempted to be given for this sudden change. Mr. Cowperthwait, it is true, states (page 130) "that the only reason he can assign for those particular loans, of May 1824, having been charged to *Bills receivable*, is, that *the amount being much larger than usual*, it *may* have been *inconvenient* to retain them in the drawer as cash;" but this is so manifestly no reason at all, that it never had occurred to the Teller, nor is it easy to conceive how it occurred to Mr. Cowperthwaite. This gentleman is also mistaken in the same page, when he says "that such loans were never entered to this account prior to 25th May, 1824, *nor ever since:*" for it appears from the account itself, that for four or five days afterwards, similar loans, and some of them not so large that they *may* have been inconvenient, were entered to this account.

Now let it be observed, that it has already been shown, from Mr. Wilson's evidence, that he did mention to your memorialist this *practice* of "letting Mr. Biddle have *these facilities*," and that Mr. Wilson "was not pleased with such transactions"--(page 126;) and also that Mr. Hunt has proved, (pages 140, 141,) that your memorialist stated to him, while he was a Director, in 1824, these loans were so made to Mr. Biddle, and "that Mr. Wilson or some other officer of the Bank had consulted him about the propriety of this sort of loans;" also that your memorialist had then stated to him "that these loans were not on the books." Is this not strong circumstantial evidence to prove that it was the interference of your memorialist, caused by the communications of Mr. Wilson on this subject, and which the memorandum shows he had examined, that changed this course of practice; and that it was upon his suggestion or advice that these loans began then to be put where they could be seen, and would be exhibited to the Directors, (as they always ought to have been, if allowed at all; but as they never before were,) in the semi-weekly statements of the Bank? Such a course might have been expected from "an active and vigilant Director," who it is proved (page 123) was "habitually communicated with," as other Directors, by the officers. And such a course might have been expected from a Cashier, *who was not pleased with such transactions*, notwithstanding his incompetency, and the President's beginning then to discover, (page 128,) that "the institution could not get on with him, but that he must be removed."

A change thus commences in the practice of the bank as to these stock loans on the 25th May, 1824. It must be ascribed to the interference of some person, and from the circumstances just referred to as proved by Mr. Wilson and Mr. Hunt, as well as by your memorialist, he thinks it cannot be denied, to be at least highly probable that it occurred as he has stated it. This change consisted in bringing to light, and having put on the books of the bank, loans that according to the previous usage appeared only in the Teller's drawer. On the 27th, another of these loans is obtained by T. & J. G.

Biddle for $24,000, on the 28th, another of $30,000, and on the 31st, another of $20,000. These, like the preceding one on the 25th, are entered in this account of bills receivable, after which there appears, in that account, during the rest of the year [page 506,] but two entries, both of which were probably transactions of a different character; and in the account furnished by the Teller of the interest received on loans from his drawer, there is no entry of interest received on any other such loan during the rest of the year. Here, then, is another important change in the practice of the Bank. At first, these loans heretofore appearing no where, are made to appear in the account of bills receivable. They are so entered as they occur for a few days—and then they are entered no where and the practice of making such loans ceases altogether—and does not occur again during the time of service of your memorialist.

Your memorialist avers that this discontinuance of an improper and irregular practice contrary to the rules of the Bank, was the result of Mr. Wilson's information to him, his examination into the correctness of the information, as appears by his memorandum, and his objecting to it to the President. It is not pretended by the President or any officer of the bank that it is to be ascribed to any other person, or that it occurred in any other way. That such a change of practice should have taken place, and that none of them should be able to account for it, is surely a strong confirmation of the correctness of his statement. Their not remembering any thing of the transaction (for this is all their testimony amounts to) is greatly relied on. But their not remembering how the change took place (which their own books prove) in a former practice, their being unable to conjecture either a person or a cause to which to attribute it, must, in the estimation of every unprejudiced mind, far outweigh the objection from their want of recollection.

The force of the documentary evidence he has produced, in connexion with these circumstances, has been felt, and much pains and labor have been taken in "prying for flaws, and hunting for exceptions" to the credibility of your memorialist. It was thought necessary to prove that a Bank Director "has no authority to examine the books," (page 139, 140,) nor to direct the officers to make entries, but the same witness proves that "he, as a Director, would give his opinion or advice, if asked by an officer, "about any difficulty which might arise in the course of their business," and that he would also "feel authorized to look into a book or drawer if asked so to do by a clerk." Now here your memorialist has certainly (as his memorandum shews) looked into a book and into a drawer. It would not have been probable, without this evidence, that he would have done so, without some officer's calling his attention to something that required him to do so. This evidence therefore confirms his statement, that his attention was called to the subjects noted in his memorandum, and admits that if so called on, there was nothing unusual or unauthorised in his looking into the book and the drawer, and giving his advice or opinion when an officer of the Bank felt a difficulty about "transactions he was not pleased with," or "consulted him as to the propriety of this sort of loans."

In one of the reports, in order to "pry out" a motive for the alleged fabrication of your memorialist, it is insinuated that he was "secretly an enemy of the President." This, it is supposed, was thought to be discovered by a question put to Mr. Hunt, (page 141) who says "he considered Mr. Whitney" at the time of his communication to him, "as not friendly to the President." When asked on what he founded this opinion, he stated that your memorialist "had mentioned some other circumstances, discounts and other things which he disapproved of, and he thought Mr. Biddle had assumed too much influence in the Bank." This certainly is but slight proof of secret enmity. He mentioned in confidence his opinion of irregularities in the Bank, as to which he had been consulted by the Cashier, and "discounts and other things" from which he thought Mr. Biddle assumed too much influence. He does not now see how he could have mentioned such things more delicately, or with less appearance of enmity. And certainly his having mentioned them at all, at the time of their occurrence, and shewn the memorandum, as this evidence of Mr. Hunt clearly proves he did, is the most complete refutation that could be desired of the charge of fabricating false evidence to injure the President, or to serve others.

Again he is charged with having retracted on his subsequent examination, "an affirmation most material and most confidently made" on his first examination, "after it had been blasted by the production of the entries on the books themselves." The affirmation thus "blasted," and thus "retracted," is stated to be this, "that the notes which he had discovered in the Teller's drawer had not been entered on the books when he discovered them, and that they were so entered by his direction." And this retraction, it seems, "was not frank and candid"—"It was by assuming an alternative, which, while it abandoned all pretence of sustaining the fact, was yet unwilling to abandon the offensive imputation."

In his first examination your Memorialist had stated his recollection of the occurrence to be that when he was first informed of these loans they were seen in the Teller's drawer, and that "he directed them to be entered on the books." On his second examination he states that he directed them to be put upon the books, or "that he was informed that they had been placed there, and confirmed their having done so." This is a nice criticism upon evidence. The qualification of an affirmation made by a witness, not materially changing the fact, is to discredit him. He at first said that the entry was directed by him, and subsequently that it was either directed by him, or approved by him. And this is retracting "a most material affirmation," and "abandoning all pretence of sustaining the fact." There must have been eager "hunting for exceptions," and not much success in finding them, when such an one as this was thought worthy of notice.

He is then represented as utterly confounded by the "demonstration" of the President's being absent at Washington, at the period which he had assigned for his conversation with him in Philadelphia. He is stated on his subsequent examination to have "admitted that there was a discrepancy between this demonstration and his previous

asseverances but he neither attempted to reconcile them, nor to fortify his own statement by explanation or commutation of its terms."—Let the statement in your Memorialist's evidence, in page 149, be examined, and it will be seen that he acknowledges his mistake in the date, imputes it to inaccuracy of recollection, after a period of eight years, shews that his memorandum did not extend to a date of the conversation, he believed that he had informed the President immediately on ascertaining the facts, and asserts "that he must have done it subsequently." And yet it is said that "he did not attempt to fortify his statement by explanation or commutation of its terms." His attempt to explain that his memorandum fixed no date for the conversation; that he spoke from recollection only of the time of a transaction of eight years past, that he thought it took place immediately after the discovery, that he still asserts the fact of his having made the communication, and that "he must have done it subsequently," may all have been very unsatisfactory, but refuting it would have been more "frank and candid" than denying that he made any such attempt.

Misapprehensions of his evidence still more gross and extraordinary, are to be found in the effort which has been made to represent him as a prevaricating witness, and his cross-examiner as an able and experienced detector of falsehood. It is said he was asked, "what had been his motive for giving the *testimony?*" and that he answered "he had no particular but general motives for *giving the testimony;* that he did not recollect whether *it* had been voluntary or asked of him." When his testimony is referred to in page 117, what will be thought of this description of it? He was asked no such question—he gave no such answer. He was asked whether "he had any particular motive for making a communication" which he stated he had made to the Chairman of the Committee. And he answered, that for making that communication "he had no particular motives, his motives were general." Then he is represented as a reluctant witness, who must be questioned and *pressed* by an ingenious advocate. That he was in the hands of such an advocate he may admit; but the ingenuity under which he has suffered, seems to have been exerted not in extorting but in distorting his testimony. It is said, that "on being *pressed by a further question*, he answered that Judge Clayton had been recommended to him by a letter from Mr. Benton." Let every question put to him during his examination be read, and there will not be found one, to which he could with propriety have given this answer, except the one to which he did give it: and to that one, if he had had the least unwillingness to disclose the fact contained in the answer, he need not, from the generality of the question, have felt bound to do it.

A great effort is made to discredit and disgrace your memorialist, on the ground of his mistakes. He has not accurately remembered a date, nor all the circumstances attending a transaction which occurred, and conversations in relation to it, held with the Bank officers seven or eight years ago. This too, when he has had no opportunity to refresh his recollection by examining the books of the Bank or subsequent communications with the officers. And this not to be impu-

ted to innocent mistake--he is to be discredited as a perjured witness. And yet, here is a grave and learned reporter, who has heard a witness give his testimony only a week or two before he undertakes to state it, and who, moreover, has his testimony in writing before him when he is stating it, and yet mistakes it, and represents it, in the several particulars which have been just mentioned, and in many others, (some of which may be hereafter noticed) in a manner materially different, both in substance and in words, from the testimony as he had heard and read it. And these mistakes too, are always against, and never in favor of, the witness he has chosen, under the influence of these misapprehensions, to assail. Yet what would be thought of your memorialist, if he was to insinuate that these mistakes were wilful--if he was to judge, as he has been judged?

These mistakes of your memorialist, the great points upon which he is assailed, he will now briefly consider.—And first, as to the date given by him to the conversation with the President of the Bank, after the information given him, of this practice of stock loans, and the discovery of the two discounted notes referred to in his memorandum. Here he is supposed to have committed himself in a way entirely irreconcilable with sincerity and fairness. The mistake of a date in giving evidence, by a witness, is certainly not uncommon, and in ordinary cases could not be thought to effect his credit. But it is said here to be attended by such circumstances as indicate a wilful perversion of the truth. What are these circumstances? His evidence is that he received this information about the loans from the drawer, and the discounted notes, examined the drawer and the discount book, found the information to be correct and made his memorandum, and that "*immediately after examining the books*, he went into the President's room and communicated to him, what had been communicated to him, and what he had learned by examining the books." All this, it is asserted, is to be taken as a mere fabrication, because it is shewn that he did not and could not make this communication to the President, at the time he mentions, viz: *immediately after examining the books*, and the minutes of the Bank and a very considerable correspondence are most vauntingly produced to shew that the President was absent at Washington *on both the days noted in the memorandum*, and for several days afterwards. The dates of the memorandum, it is said, "unalterably fix the *date of the transaction*," that is, the conversation, and he is therefore thought, by the President, to be "enclosed between these two dates, beyond which he cannot escape." Then it is all, both the statement in every particular, and also the memorandum, a fabrication. But the memorandum, it has already been shewn, was in existence and shewn to a respectable witness in 1824, at which time it is absurd to suppose it was fabricated. It has also been shewn that he then gave to the same witness, (with the exception of the statement of the loans being without interest, which he will hereafter notice,) substantially the same account he does now. And that account he has already shewn to be verified by the other witnesses, and by the books of the Bank. Further, if it was a fabricated memorandum and story, his referring to the

President of the Bank and his officers, and stating circumstances which he must have kown they could and would contradict, and which were not essential to give weight to the story, was such an act of folly as no other contriver of "an artfully devised story" was ever guilty of. But for the dates in the memorandum, it would seem to be thought possible that it might be done innocently: but they fix the transaction, "as if by some fatality," and stamp him with wilful falsehood. When the memorandum is seen, this sophistry is at once exposed. There is no date on it, indicating any thing but the periods when the stock loans were made, and the notes discounted. Nothing that indicates any thing as *to the time of the conversation* stated to have been held with the President. The pretence is that a man may mistake innocently as to a date of a conversation, because he may forget it: but when he makes and produces a memorandum, *dating the conversation*, this cannot be forgetfulness or mistake, but must be fabrication. The sophistry lies in the assumption that the memorandum purports to *date the conversation*, whereas it only dates another transaction, which the witness's recollection connects with it and induces him to think *immediately* preceded the conversation, but for which he had no memorandum, and relied only on his recollection, and in which, as in every thing else depending entirely on recollection, he may honestly mistake. If this memorandum had stated upon its face that he had, at such a date, remonstrated with the President about these loans and discounts, and the date had then been falsified, there might be some color for believing it a fabrication to sustain a false story. As however it has no such reference to the conversation, but the witness thinks he remembers going to the President *immediately after making it*, it is an assertion depending on his memory, and in which, especially after the lapse of several years, he may be misled. In this collateral circumstance therefore of your memorialist's having held this conversation with the President, *immediately* after the examination of the books which he had mentioned, he is certainly mistaken in his recollection; and if such a mistake could discredit him, it might easily be shewn that there is not a witness who has given testimony in this investigation, or probably in any other, who is not liable to the same imputation.

The President was absent on the 25th May, and only returned to take his seat at the Board on the 1st of June.

Your memorialist was under a strong impression and still is, that he went immediately after an examination of the books of the Bank into the President's room and had the conversation with him he has stated. He had not recollected having had more than one communication with the Bank officers upon this subject, nor of having made more than one examination of the books and papers in the Bank in relation to these transactions. And when it is considered that all intercourse between himself and the books, papers and officers of the Bank had ceased for a period of seven or eight years, it is not surprising that several conversations with the officers, and examinations of the books, may have occurred about the same period and have become blended in his recollection so as to ap-

pear as one and the same occurrence. Now that he has seen and had time to consider the evidence and documents bearing upon this subject, collected by the Committee, he confidently believes that he can shew how these transactions took place, and what occasioned his mistake.

On the 13th of May, 1824, the first irregular discount for T. and J. G. Biddle, mentioned in the memorandum, occurred, followed soon after by the other, as has been already proved, and as they now appear on the discount book. On the 22d the President departs to Washington. On the 25th, (a board-day,) Mr. Thos. Biddle, without any application to the Board, appears, as has been shown, to have obtained a loan from the Teller's drawer, on a deposite of stock, according to the practice then prevailing in the Bank, of $45,000. The certificates and his check are put in the drawer, and no entry made of the transaction;—this having always before been the course as to such loans. Mr. Wilson, then the Cashier, who himself says *he was not pleased with these transactions*, and who "makes no doubt that he mentioned to Mr. Whitney that Mr. Biddle had loans on stock security," was no doubt apprized of this. It was a large sum, as Mr. Cowperthwaite thought it. And it was done on a Board-day, when, if he had wanted a loan, he ought to have asked for it of the Directors, particularly as Mr. Beck tells us, that "in time of press, broker's and auctioneer's paper was always discounted last—merchant's and trader's always first," (page 129.) Nothing can seem more probable, indeed your memorialist thinks it already proved, by other evidence than his own, that this transaction, which occasioned a change in the course of the bank as to these loans, was mentioned to him, and that he was then, as Mr. Hunt proves he told him in 1824, "consulted by the cashier as to the propriety of this sort of loans." He had never before known of such a practice, and could only think of it as the cashier himself did. It is noted on one of the Bank books, either by his direction, on being thus consulted, or, if suggested and done by the order of the cashier, with his sanction confirming it.

This would appear to be all that could be done, as to a practice authorized by the president, in his absence; neither the cashier nor a director choosing to disallow in his absence, a practice sanctioned by him. The loan, however, was thus put where it would be brought under the view of the board. On the next day, it appears, another similar loan is obtained by the same person of $24,000, which is entered as the other had been. Then, or shortly afterwards, your memorialist is informed also of this, and then, when these two loans were shewn and explained to him, and at the same time the two irregular discounts, he presumes, he made his memorandum, which simply stated the four transactions, and their dates and amounts.—On the 27th, according to Mr. Thomas Biddle's account of these loans, in page 137, $18,000 is obtained in the same way, and on the 28th, a further sum of $12,000, which two sums are put together in the account of "bills receivable" in page 506, as one entry of the 20th of $30,000. On the 31st, another sum is obtained by Mr. Biddle, as appears in both the accounts, in the same two pages, of

$20,000. The president returns, and takes his seat at the board, on the 1st June, having arrived in Philadelphia the day before, or possibly on the 30th. These continued loans, of the same description, thus rapidly occurring, if any of the former circumstances had been brought to his knowledge, as he confidently asserts they were, and as he thinks is already shewn, would not have escaped his notice, and after again examining the books and seeing all these entries of an authorized loan thus almost daily repeated, he believes it was, that he went into the president's room and mentioned his objection to them in the manner he at first stated.

Your memorialist does not mean to say that he has now any distinct recollection of these circumstances, as having occurred in the order and manner he has now stated. But the appearances of the transactions, as they now stand on the books, connected with the fact of the President's absence and return, with the admissions of Mr. Wilson and the statement of Mr. Hunt, fully convince him that they did so occur, and that his mistake in blending in his memory several communications and examinations, taking place about the same time, and in reference to the same transactions, led him to believe as he at first did, that he made but one examination of the books, when he made his memorandum, and *immediately* after it, made his communication to the President. When it was made, whether on the 26th or 27th of May or the 31st, or the first of June cannot be material. That he did make and has truly stated it, he avers, and is willing to rely on the circumstantial evidence he has already referred to, to show that the objection or interference of some person must have caused the change, which the books and documents exhibited, as then occurring in the practice of the Bank, and that he, to whom the cashier admits he mentioned this practice, must have been that person, who thus produced that change, which the president and none of the officers have pretended to account for, or to attribute to any other person.

The other mistake made by your memorialist, in his recollection of these transactions, and which has been used in assailing his credit with equal violence and injustice, is the part of his statement which describes those temporary loans from the drawer of the Teller, as having been represented to him to have been made *without interest.* He certainly did believe that they had been so represented to him: but as soon as he saw that interest had been received on them he frankly acknowledged this error. It certainly is not remarkable that he should not accurately remember the statements made to him so long ago on the nature and character of these loans. The memorandum was silent on the subject, and when he considered the manner in which they were made, checks at short dates, substituted, with stock certificates, for cash in the Teller's drawer, and no account kept of them any where, and the terms of disapprobation used by the cashier in speaking of them, he may have drawn the inference in his own mind that they were without interest, and mistaken that inference for information to that effect received by him from the officers. That he should wilfully have made a false statement, on such a subject, when the books and accounts of the Bank would so readily disprove it, is incredible.

That a practice of this loose character would lead to abuse and irregularity, might well justify the inference that interest might not always be duly required of such borrowers. And your memorialist may have seen something in the particular transactions thus brought to his notice, calculated to create such an impression. From all that appeared in the Bank, when the first of these loans was brought to his view, it seemed to have been a single loan, obtained on the 25th May, for forty-five thousand dollars—yet Mr. Thomas Biddle's account, page 137, shews that that sum was composed of two loans of that description from the Teller's cash, one obtained on the 19th May of 16,000 dollars, and the other on the 24th of 27,000 dollars. Yet, as far as the Bank had any knowledge of them, and consequently any power of exacting the regular interest, it would appear as one loan of 45,000 dollars, on the 25th, the 18,000 dollars obtained on the 19th, and which should have been liable to interest from that date, being added to the latter sum of 27,000 dollars, obtained on the 24th, and forming one sum as loaned on the 25th.

He certainly, in some way or other, (and he conscientiously thought, from the information he received of them, but which was possibly only an inference of his own,) did consider them as loans without interest. Their being without interest would certainly have made the charge against the Bank a more serious one. He had no wish and has none now to make it more serious than the circumstances would justify, *think*ing with Mr. Hunt, that it is "serious enough" without that appendage.

These two mistakes of your memorialist he is quite willing to compare with those of others, concerned in this investigation, both as witnesses and reporters, and to abide by any test, however rigid, that shall be applied impartially to all. He will trespass however upon the patience of the House, only by stating a very small proportion of them. A few of Mr. Cowperthwaite's and of one of the Honorable Reporters, he has already noticed, and cannot forbear adding some of the most prominent ones of the latter. In the history which this Honorable Gentleman has condescended to give of your memorialist, (page 386,) he speaks of his residence "in Canada during the war, by permission of the British government, on his taking an oath to obey the laws of the country, which he did not consider as an oath of allegiance." The Honorable Reporter forgot to add the circumstances stated by your memorialist, making this residence a matter, not of choice but of necessity, (page 138) and forgot also in the statement about the oath, and how your memorialist considered it, a word of some import, to be found in his testimony, (page 138.) He was asked by the reporter, if he understood this oath to be an oath of allegiance, and he answered "no, not permanently"—the two latter words, altering materially the meaning of his answer, are omitted. Again it is stated in the same report, (page 388) that "his oath was falsified by the concurring oaths of the five individuals, who *with certainty of knowledge* could contradict him." How they have contradicted him he has in some measure shown—as to the loans being without interest, and as to the date of the conversation, they have contradicted him, but in nothing else. Their non-recollection of

the other facts stated by him, can hardly be considered as *certainty of knowledge.* Does Mr. Wilson contradict him as to the existence of, or his telling him of the "facilities, with which he *was not pleased.*" Does he or the president, or any of them conlradict him as to the admitted *practice* of unauthorized stock loans? And if they contradict him as to the unauthorized discount of the two notes, what is their contradiction worth, opposed, as it is, by the demonstration of the fact from their own books?

Again, in page 390, it is said "there was a deposite made by Messrs. T. Biddle & Co." and that an allowance was *once* for a short time made to them for interest. Mr. Wilson distinctly remembered *twice.* It is said that "the money thus deposited was in the possession of T. Biddle & Co. as agents for a *certain foreign government,* and that the pressure on the money market was very great"---and that "the Bank having urgent occasion for the use of the money, the interest upon it for a few weeks was allowed as a consideration for its being left in the Bank for employment there, instead of being withdrawn for the use of the depositors"—that the allowance of interest was not equivalent to the profit which T. Biddle & Co. would have realized from the same money by withdrawing it." "As in the case of moneys paid out to them from the Teller's drawer, upon equivalent deposites of stocks transferred, it was done for transactions in which the Biddles were purchasing bills for the Bank, acting not for themselves, but as agents for the Bank. In such cases the cash was wanted to pay for the bills purchased. The brokers not having the cash on hand, received it from the Bank itself, leaving United States stocks of equal value in its place, for a few days, until the brokers, agents for the Bank, restored the cash, took back their certificates of stock, and paid interest for the cash they had received for every day during which it had been drawn." Now, in this quotation there are mistakes enough, upon the principle applied to your memorialist, to discredit a host of witnesses. It is well said in the next sentence that these dealings of the Messrs. Biddles with the Bank were *complicated,*" if they are here correctly described. These gentlemen have in their possession, money, as agents for *a certain foreign government,* and they are agents also for the Bank, to *buy bills for the Bank,* and "the cash was wanted to pay for the bills purchased." It would have been then a simple operation for the brokers as agents for the Bank, to take the money they held for this foreign government, and pay for the bills. But they deposite it in the Bank and are paid interest for it, till they want it to pay for bills: an operation certainly unnecessarily complicated, and not advantageous to either party, for the bank would pay interest on it, just while they did not want it, as it would have to lie in the bank till it was wanted to pay for the bills, and the brokers would loose all they could have made above six per cent. by the use of the foreign government's money. The bank also ceases to pay interest on this money as soon as it is drawn out, to pay for their bills, which, it might have been thought, was the very period when they ought to begin to pay interest on it.

But singular and *complicated* as this sort of dealing appear, 'its bears no comparison with the other, which the reporter here undertakes to explain, in relation to the stock loans from the bank to the Biddles. Then they are again, it seems, *agents for the Bank*, buying bills for the bank. And now, instead of being lenders to the bank, the brokers and agents become borrowers. In this case also, "the cash is wanted to pay for the bills purchased, and the brokers, not having the cash on hand, received it from the bank itself;" then the brokers, of course having got the bank's cash, pay for the bank's bills, "and they deposite certificates of stock," when they receive the bank's money to pay for its bills, and leave the stocks there "until the brokers, agents for the bank, restore the cash, take back their certificates, and *pay interest for the cash they had received*, for every day during which it had been drawn." There was certainly no improper partiality shewn to the Messrs. Biddles by the bank in this transaction.

If the facts here stated as the foundation of this most ingenious explanation of the complicated dealings between the Biddles and the bank in relation to the deposites on interest and the stock loans, of their being the *agents of a certain foreign government*, and the agents of the bank, buying bills for it, be correct, as they must be presumed to be, what is to be thought of the president and his officers, and the Messrs. Biddles, who seem wholly to have forgotten to mention any such circumstances in their testimony?—They have given in the statement of "remittances to Europe," a list of the bills purchased by the bank, and it is not said that the Messrs. Biddles were their agents in making these vast purchases, many of which it might be supposed could have been readily purchased by the bank officers without the intervention of an agent—and it is to be hoped they were not the agents, for it appears, in pages 162, and 163, that a bill was purchased of the bank of Pennsylvania for £20,000 sterling, at 60 days, drawn by the bank on the house of Baring & Co. for $10\frac{3}{4}$ per cent. premium, and on the same day, bills were purchased of T. Biddle & Co. drawn by them, for upwards of £120,000 sterling, some of them at much longer dates, for 11 per cent. premium.

Leaving now a multitude of most unaccountable instances of mistake in this report, your memorialist proceeds to state a small number of those occurring in the testimony of the president of the bank. He has already noticed a very glaring one in the president's glowing description of a commercial storm, which passed over this country in 1825, and impeded the sales of the U. S. $4\frac{1}{2}$ per cent. stock, and depressed its value to par. He has also shown that the president had forgotten, when he gave his evidence, that there was no committee in 1824, authorized to make discounts in the intervals between the board-days; as to all which points the president has been contradicted by the clearest evidence.

In page 142 he says " By a *fortunate accident*, I am now enabled to prove, in the clearest manner to the committee, that the occurrence to which R. M. Whitney has sworn with so much hardihood,

was not merely improbable, but actually impossible. After the adjournment of the committee yesterday, *on examining the minutes of the bank for another purpose, I casually saw a* passage which furnished the means of convicting the witness of being guilty of a deliberate violation of the truth.

This then was a *fortunate accident.* While *examining the minutes for another purpose,* he *casually sees* the passage that is thus to convict your memorialist.

Now this *fortunate accident* is uufortunately shewn to have been no accident, and although so solemnly avered by the witness, is entirely discreditted by the minority of the committee, who, it is not to be supposed would have contradicted him without "certainty of knowledge." They say in their report *(page 307)* that "in the interval between the adjournment of the committee and its meeting the next day, *a member of the board suggested to Mr. Biddle* that he was, about the time of this alledged transaction, in the city of Washington. On examining the journals of the board and the letter book, it was found," &c.

It has been thought quite sufficient to disdredit your memorialist that he has given a wrong date to a transaction, and it is considered as giving weight to the charge that he has fixed not only upon a wrong date, but an impossible one. "As if by some fatality," it has happened that the President should give an apt illustration of his argument in his testimony. He was asked as to the time of the Bank's receiving notice of the acceptance of certain bills of exchange on houses in London, and in his answer, in page 125, he states that "the time of receiving notice of the acceptance of the bills respectively was as follows:

"That of Oct. 14th, 1831, on 14th Nov. 1831,
That of Oct. 22nd, 1831, 22nd Nov. 1831,
That of Decr. 9th, 1831, 6th Jan, 1832."

He thus allows about thirty days for a bill to leave Philadelphia, be presented and accepted in London, and the notice of acceptance received in Philadelphia, which is quite as impossible as any thing your memorialist could have stated.

Your memorialist will now call the attention of the House to two remarkable transactions referred to in Mr. Biddle's evidence. They will serve not only to shew several points in his evidence in which he is directly contradicted by the other testimony, and the well known usages of this and every other Bank, and the experience of all who have ever dealt with, or had any connexion with such institutions—but further, that, on his own shewing, he has committed, and now tries to justify, the very same kind of improprieties in his management of the Bank, which the testimony of your memorialist had disclosed. If he shall succeed in this, it is obvious that he will thereby confirm, in the strongest manner, his own evidence and impair that which is relied on to discredit him. What has your memorialist disclosed by his evidence and confirmed by the references from his memorandum to the books of the Bank, and which he has shewn to be corroborated by other witnesses? It amounts to this—that the Presi-

dent of the Bank assumed powers not belonging to him—violated the rules of the Bank by doing that, without the knowledge of the Board, which could only be done by their authority—by granting facilities, such as paying interest on deposites, discounting notes, and allowing stock loans without authority. Now if your memorialist shall be able to shew that he has done these very things in other and more recent instances, it will hold up powerfully the statement of your memorialist, and beat down the denial of the President. The argument intended to prostrate your memorialist, in the report of one of the Honorable Committee to the House, is thus prefaced—*(page 384)* "In the conduct of the present President and Directors of the Bank of the U. S. *no intentional wrong, and no important or voluntary error has been committed.* He deems this declaration due from him to those worthy and respectable citizens, in the face of this House and of this nation, willing as he is to abide upon it the deliberate judgment of after times." Your memorialist will venture to join issue on this declaration, in the face of the House and of the nation, and *will abide the deliberate judgment of after times,*" and also of the present times.

Take first the case of the various loans to Webb & Noah, and Burrows. Who are these gentlemen? Prior to 26th March, 1831, Mr. Webb was a partner with Col. Tylee in a newspaper of extensive circulation in the city of New-York, called the Courier and Enquirer. Some circumstances were operating on the latter gentleman, inducing him to sell out, and Mr. Noah became desirous of taking his interest, *(page 81.)* It appears *(page 79)* that "from the 30th November, 1829, *to about April* 1831," the Courier & Enquirer did warmly oppose the re-chartering of the bank! But about the time that Mr. Noah was "negociating his loan," in order to purchase the interest in the paper, Mr. Webb *(see his evidence, page 81,)* "*mentioned to the gentleman through whom Mr. Noah was negociating his loan, and to Mr. Noah, that he was prepared to advocate a modified re-charter of the bank.*" "Mr. Noah stated his fears of the effects of such a course on the reputation of the paper, and said he questioned the constitutionality of the Bank, unless located in the District of Columbia, but admitted its utility. The gentleman referred to *urged their advocating an unconditional re-charter, but expressed great satisfaction at learning that Mr. Webb was in favor of a charter under any circumstances.*" Mr. Webb afterwards becomes "more than ever satisfied of the necessity of a United States Bank." This gentleman, through whom this loan for Mr. Noah was negociating, and who was thus "urging their advocating an unconditional re-charter," and who expressed his "great satisfaction at learning that Mr. Webb was in favor of a re-charter under any circumstances," *was Mr. Silas E. Burrows?* This gentleman, it further appears, from the evidence of Mr. N. Biddle, (page 18) was "a very rich merchant, of a kind and benevolent disposition, and constantly engaged in doing acts of liberality." Being thus brought into acquaintance with all these gentlemen, and with their particular views at this period, let us now attend to their operations. The gentle-

man, through whom this loan for Mr. Noah was negociating, that is, Mr. Burrows, goes to Philadelphia, and there on the 26th March, 1831, negociates the loan with the president of the bank, who gives, (in page 86) the following account of this transaction:

"He said he was desirous of befriending Mr. Noah, and assisting him in the purchase of a share of a newspaper, and he asked if the bank would discount the notes of these parties, adding that, although he as a merchant, did not wish to appear as a borrower, or to put his name on paper not mercantile, yet he would at any time do so whenever it might be necessary to secure the bank. I do not recollect whether he mentioned the time the notes would have to run. The committee being authorised to discount any paper the security of which they might approve, agreed to do them. As Mr. Burrows was going out of town I gave him the money out of my own funds, and the notes were afterwards put in my possession. They remained with me for a long time, as I had no occasion to use the funds, nor was it till the close of the year, that my attention was called to them, by the circumstance that a new board of directors, and a new committee of exchange would soon be appointed, the said committee which made the loan should consummate it. I had seen, also, in the public prints many reproaches against the bank for lending money to printers and editors, and I was unwilling that any loan made by the bank should seem to be a private loan from one of its officers. Having no use for the money, it would have been perfectly convenient to let the loan remain as it was; but I thought it right that every thing done by the bank should always be distinctly known and avowed, and I therefore gave the notes to the chairman of the committee, Mr. Thomas P. Cope, who entered them on the books."

This appears to have been a singular transaction for "a very rich merchant, constantly engaged in doing acts of liberality." But it will seem still more singular in the sequel. On his return with the President's money, with which he had been desirous of *befriending Mr. Noah*, instead of giving it to him, it appears (page 82) that "he gave his father's paper at short dates." And when the paper of this "very rich merchant" fell due, "*it was not paid*," and Mr. Webb's father-in-law cashed it, and "one third of it was replaced by the notes "of the negociator," at sixty days, and six months, because he could not raise the funds at the time he had agreed on." That at sixty days, was "sold immediately thereafter to a broker in Wall street." This *very rich* merchant, when he gave his father's paper, further befriended Mr. Noah by charging him 2½ per cent. for this *act of liberality*, and deducting that commission from the paper thus given him, and took ten notes from Mr. Noah, payable to and endorsed by Mr. Webb, payable every six months for 1, 2, 3, 4, and 5 years, dated 1st April, 1831, which were afterwards, as the President has stated, put in his possession, not *payable to Burrows*, (as the Report of the member of the minority states,) nor with any endorsement by him. Mr. Webb further states (page 83) that "he understood from the gentleman, within the last month, that this money was loaned by his father: that he was in want of funds in January last: that he went

to Connecticut, procured these notes, and had them discounted at the Bank of the U. S. upon some collateral security."

This gentleman unfortunately, was not examined. Being constantly engaged in "acts of liberality," he could not be found any where. The member of the Committee, in his report, seems to have ascertained that he kept out of the way, (see page 375) and thinks he did so "*with a just estimate of his own rights.*" Probably also with a just estimate of what he would have had to divulge if he attended. The Honorable Reporter seems to regret that the same estimate of their rights was not made by Messrs. Webb and Noah.

From the President's own account of this negociation, does this appear to have been an ordinary transaction? Is he willing that it shall be thought nothing uncommon for the Bank of the United States to make a large loan, for one, two, three, four, and five years, and advance the money on a *promise* that there should be sent to them, to secure it, the notes of one partner indorsed by the other, with a verbal promise of another gentleman to put his name on them "whenever necessary to secure the Bank?"

Is any body credulous enough to believe this? If any two partners of the most substantial house in Philadelphia, were to go to the Bank of the U. States, or to any Bank, and ask such a thing, would not the very porter of the Bank laugh at them? And if it is really so, that such a thing might be so done and not thought out of the common course of their business, is it not worse than any thing stated by your memorialist?

What then was there peculiar in this negociation, that such a proposition should be acceded to? Were Messrs. Webb & Noah known to the Bank? It would seem not, for in the August following, when they present themselves with a note for $20,000, they come as strangers, with recommendations and statements and certificates of their solvency. The President says that "neither he nor any of the Committee had ever seen Mr. Noah or Mr. Webb, or had any communication with them, direct or indirect, about the loan."

"As Mr. Burrows was going out of town," the President "gave him the money out of his own funds." Why should this "*going out of town*" be any reason for giving him the money before he gave the notes. Could he not have sent the notes from New York, and then, when the Bank got the notes, receive the money? Could any common man, under common circumstances, or because he was going out of town, ask for $15,000 *on a promise* that he would afterwards send the notes of one stranger indorsed by another (and they partners) as security for its repayment, and that, either without mentioning the time the notes were to run, or (if mentioned) that they were to run 1, 2, 3, 4, and 5 years—and adding *another promise* to indorse them hereafter if necessary.

And the President *gave him the money out of his own funds.*—Why so?—"*as he was going out of town.*" Does *as* here mean because? If it does, why was it not as easy to give him the Bank's money as the President's money? If the Bank made the loan, the

Bank's money should have been paid. But perhaps it was because the Bank was closed, and its money could not be got at, and the President having that small sum among the loose cash in his pocket, accommodated Mr. Burrows "*as he was going out of town.*"

It cannot be imagined that all this story has been told—according to a system of Ethics which has met with a great advocate, the man who knows facts in relation to the conduct of men in public trust, "*puts a just estimate on his rights,*" when he keeps out of the way of process which would compel him to give testimony as to those facts. Consequently a witness who cannot keep out of the way, and does attend, "puts the same just estimate on his rights," if he keeps back as much of his testimony as he can. For if a man's rights authorize him to keep back all his testimony, he may keep back a part, as the greater includes the less.

When it is remembered that *this gentleman*, who negociated this loan for Mr. Noah, urged the Editors "to advocate an unconditional re-charter," and "*expressed great satisfaction* at learning that one of the Editors was in favor of a re-charter under any circumstances;" that this was just before his visit to Philadelphia when he negociated the loan, which was on the 26th March, and that the Courier & Enquirer, (Mr. Noah having got the money, or rather the negociator's paper on the 1st of April,) came out for the bank on the 8th of April, to "fight their battles," as Mr. Noah expresses it, (page 103) to which publication Mr. Noah refers in his letter to Mr. Bowne of the 5th of August, (page 97) when he wished to get another loan for 20,000 dollars, "saying that Mr. Webb made a publication of his views, in April, on that subject, and the paper, if induced to take any part, will at least go as far in favor of the bank as he mentioned at that time"—and when it is further seen that at the same time and with the same view, Mr. Webb thought it of some importance to him in negociating a loan, that his father-in-law's opinion in favor of the bank should be known, as appears in Mr. Stewart's letter, (page 97) is it possible to believe that this gentleman, when he told the president of his being "desirous of befriending Mr. Noah, and assisting him in the purchase of a share in a newspaper, *stopped just there*, and said nothing about his urging them to advocate the re-charter? nothing of what they said? nor of his great satisfaction in finding how Mr. Webb was disposed towards the bank? The president of the bank has not said that he did not say something of these circumstances. He may have forgotten, or he thinks, possibly, with Mr. Burrows and the learned reporter, upon the subject of being compelled to give evidence affecting the interests of others.

Further, what, as is evident from his course, was Mr. Burrows's view? Who was he befriending? This gentleman *so constantly engaged in doing acts of liberality?* "He was desirous of befriending Mr. Noah"—yet he charges him $2\frac{1}{2}$ per cent. commission, and gives him, instead of the money, his paper, a part of which finally finds its way into Wall Street; and that after the president of the bank had so kindly given him the cash out of his own pocket to carry immediately, without even waiting for the notes from his friend Noah.

Does not this shew Mr. Burrows the friend of the bank, in this negociation, and that he cared nothing for Mr. Noah further than as to his coming out for the bank?

All this is seen to be followed up with the other loans, amounting in all to 52,975 dollars, to the same two partners on the same sort of paper, and the correspondence leading to these subsequent transactions is exhibited. The directors, upon examination, appear all, in August, to have been ignorant (as indeed they must have been) of the first loan of 15,000 dollars, negotiated by Mr. Burrows, for it still remained as a private affair of the president's. They seem to have been under great misconceptions in regard to the subsequent loan in August. Mr. Neff says, (page 562) that "he voted in favor of the discount on the strength of a letter which was very positive as to the safety of the loan." This of course was Mr. Bowne's letter, which is seen in page 96, and says not one word as to the safety of the loan. Mr. Cope thinks he was absent at the time, (page 559.) Mr. Bevan is sure he was, (page 564,) and Mr. Bohlen (p. 549-550) "recollects it was before the board," *because he now sees it on the book.*

After the subsequent loans to those gentlemen, made under these circumstances, one in August for 20,000 dollars, and another on the 16th December for 15,000 dollars, at a time of great pressure, at six months, and "when many notes were rejected on that day," (pages 87 and 107) and after they had so continued until it was seen that the affairs of the bank were probably to be investigated. Then, on the 2d March, appears again this gentleman so "constantly engaged in doing acts of liberality," and he takes up the ten notes of Messrs. Noah & Webb for the loan at 1, 2, 3, 4, and 5 years which he had negociated, and on the 11th of March, Mr. Webb beginning to think that his "loan, though strictly defensible, was a large one," writes to inform the president that in a few days they will pay the last note due in December, for six months, (page 104.) This in a day or two is done, the bank returning the interest for the unexpired time it had to run. This "very rich merchant," Mr. Burrows, is accommodated by the bank, to enable him to "do this act of liberality," and some others also, perhaps of the same kind, with a loan of $23,525 71 on the 2d March, another on the 14th March of $14,150 50, and another on the same day of $10,407 13, (see pages 556 and 557.) On the first of which days (page 107) upwards of $160,000 of notes offered were rejected, and on the 13th March, the board rejected $148,000 of notes offered; this being also a time of great pressure, (page 563.) Thus were these loans, when no investigation was expected, thought by all the parties, to be quite ordinary business transactions; and thus, when it is thought possible they may be looked into, and have a different appearance to others, it is thought prudent to take them out of the way. And notwithstanding this plain condemnation, in which all concerned, lenders, borrowers, and negociator have pronounced upon themselves, the public is expected to be stupid enough not to perceive it, and to agree with the reporter, (page 387) that "*no intentional wrong and no important or voluntary error has been committed.*"

The able advocate, who has undertaken, "in the face of the House and of the nation," to maintain this proposition for the bank, and to abide the judgment "of after times," on the issue, is now invited to look at the case of Gen. Stevens's notes, discounted on the 23d of March last, the day on which the committee of investigation held its first session.

This appears in page 190, and the testimony of the president is as follows:

"My impression in regard to it is this: On the morning when this committee of investigation first met in this room, and while I was with them, I gave to the second assistant cashier, Mr. Cowperthwaite, either those two notes, or one of them, or a memorandum of one of them, I do not recollect which, though if I did not see the two notes on the book, I should think that all I gave to Mr. Cowperthwaite, was the memorandum in respect to one note. Whatever it might be, I gave it to him, saying, that I knew Mr. Stevens to be a responsible man; and if on enquiring, he should receive a good account of the drawer of the note, that he could pass them to the credit of Mr. Stevens, *for* he was going out of town, before the meeting of the committee of exchange; and I should not myself be able to be with that committee on account of my presence with the committee of investigation.

"I directed the discount on this occasion, without waiting for the committee of exchange, because from my own knowledge of the party, I was sure it would have been done by the committee, of which I am myself a member, and as the applicant was about to leave town I thought it right to give that reasonable accommodation to a stranger."

Here is another person, who, most fortunately for his success in getting a discount, is also going out of town, and a stranger.

This will scarcely be pretended to have been an *ordinary business transaction.* For certainly it will not be avowed, or attempted to be justified as the practice of the Bank, that on a Board-day, and during the session of the Board, or just as it met, the holder of a note can get it discounted on his indorsement, by the President, without submitting it to the Board. If so, the issue on which the learned Reporter who advocates the Bank has *staked* himself, is given up; for was it not a "wrong?" and can it be pretended to have been *unintentional?* Was it not both a "voluntary" and an "important error?" If any thing is important in the management of a Bank, it is that the rules prescribed for its government should be observed. Great pains have been taken to prove, by almost all the officers, that the President never discounted.—Mr. Bevan says (page 565) "the President never exercised the power of discounting notes; some Banks give the power to the President and Cashier. In this Bank the President has no such power, and has never, to my knowledge, exercised it." Discounting is the chief operation of a Bank, and if this may be done, contrary to rule, what may not? If the President having a note given to him, when the Board is sitting or about to sit, may accept or reject it without the knowledge of the

Board, what is the use of the Board? Is it not in fact worse than useless? For if they discount, and he discounts, without concert, either ignorant of what the other does, who can answer for the correctness or safety with which this most important, and often difficult and delicate duty is discharged?

It must, therefore, be shewn that there was something in this case to justify making it an exception to a rule, which must have been known, and must be confessed to be important.

Let us see what is attempted to be shewn for this purpose—and then your memorialist will undertake to suggest *what might have been shewn.*

The President informs us that "he gave the note or notes, or a memorandum of them, or of one of them, to the 2d assistant Cashier, Mr. Cowperthwaite," saying "that he knew Mr. Stevens to be a responsible man; and if, on enquiry, he should receive a good account of the drawer of the note, that he could pass them to the credit of Mr. Stevens, *for he was going out of town before the meeting of the Committee of exchange,* and he would not be able to be with that Committee." He again says "he directed the discount on this occasion—without waiting for the Committee of exchange, because, from *his own knowledge of the party,* he was sure it would have been done by the Committee"—"and *as* the applicant was about to leave town, and he thought it right to give that reasonable accommodation to a stranger."

Now, "as if by some fatality" it happens that not one of these grounds for the President's thinking it *right* to do this *reasonable* thing, existed in point of fact. And further, if they had all existed, the President could not have thought it *right* or *reasonable.*

He was sure this discount would be made by the Committee of Exchange.—He should not be able to be with that Committee—and Mr Stevens was going out of town before the meeting of the Committee. Now, in the first place, there was on that day (being a Board day) no meeting of the Exchange Committee—see M. L. Bevan's evidence (page 564) who says "it (the Exchange Committee) meets every day but on discount days."

Though no Committee met on that day, the Board (the only discounting power) did. And the President gave the order to discount, while he *was with the Committee of Investigation.* That Committee met at 10 o'clock—at the same hour the Board met. So that this discount was made by the President, from no such necessity as he has stated, *but while the Board, the only authority to whom the application could be made, was in session.* In the next place, Mr. Stevens was not *about to leave town*—at least he did not leave town, for it appears in the evidence of John Andrews (page 191) that he remained in town, and got another note of the same sort discounted, after the adjournment of the Board.

The President says he was sure it would have been done by the Committee, "*from his own knowledge of the party..*"

Is it considered by the Committtee enough to know only the endorser of a note?—It was only of him that any thing was known.—Of the other parties on the paper, the drawers of the notes, it is not pretended that he had any knowledge. His direction to Mr. Cowperthwaite was, if he "on enquiry should receive a good account of the drawer" to pass them to the credit of Mr. Stevens. And Mr.C. says (page 190) that "he had not time" to make this enquiry, and handed the note to the discount clerk, without inquiry.

But if all this had been just as the President states it; where could he get the power to make the discount? Take his own account of it, and then, if a man is a stranger, and has a note drawn by a stranger, and is about to leave town before the committee or board meets, he may get his note discounted, for the President will think it "*right to give that reasonable accommodation to a stranger.*" If any body believes this, let him go to Philadelphia and try it—Let him tell the President that he is a *stranger*, that he is *about to leave town*, and he will find that it will not be thought *right* to give him that *reasonable accommodation*, unless he shall also happen to be, as Gen. Stevens was, *a member of Congress*. It is further to be observed that at the time this *reasonable accommodation* was thus given by the President, the Board was engaged in rejecting 113 notes out of 159 offered, (page 190,) and that among the notes rejected there were "many drawn and indorsed by responsible citizens of Philadelphia to a considerable amount."

In these instances of discounts your memorialist has now stated, he has been enabled clearly to shew that, whatever may have been the motive for them, acts unauthorized, and contrary to all rule and practice, and such as he will venture to say can be found in the management of no well conducted institution in the country, have been committed, and the President and the officers, unable to deny them, have attempted to justify them? The last case, the discounting of Gen. Stevens' note, while the Board was sitting and without its knowledge, is just such an act as your memorialist's memorandum and the books of the Bank had charged upon the President and proved.

Your memorialist is to be disgraced and destroyed for having had the *hardihood* to impute such an act, so *wholly inconsistent with his character*," to the President; and yet the President has been obliged, without "*sinking into the earth*," to come before the Committee and confess that such an act, "*so inconsistent with his character*," was committed by him.

Your memorialist will now call the attention of the House to an exhibition deliberately made by the President of the Bank to the Committee in relation to the state of the institution, which appears to him impossible to be explained or justified.

A written statement of the affairs of the Bank was proposed by the President and laid before the committee. It is dated the 16th April last, and appears in page 315. In this paper (page 325) is the following account:

"The Banking-houses, of which a list is prepared for the committee, cost $1,170,739 25
The sum already applied to the extinguishment of this expense is 551,292 05

Leaving their actual cost at $619,447 20

Which will be gradually covered by the annual appropriation for that purpose, out of the profits of the Bank of $120,000."

In the report to the Stockholders at the triennial meeting of Sep. 1831, (page 11) it is stated "that the whole of the bonus of $1,500,000, paid for the charter, and the premium of $205,880, given for the five per cent. stock, purchased in 1821, from the government, is now extinguished."

Putting these two statements then together it appears that the following sums have been paid:

For the bonus now extinguished - - $1,500,000 00
For the premium on the Stock do. - 205,880 00
And applied to the extinguishment of the cost of Banking-houses, - - - - 551,292 05

Making in all $2,257,172 05

It is proper now to consider the means that have been applied to effect this amount of extinguishment.

This is to be seen (in pages 212, 213) in the report of the Dividend Committee, adopted by the Board, in July, 1821. On that occasion the state of the institution was declared, and a new foundation laid for its future progress. It shews that previously, in July, 1817, a semi-annual appropriation of $45,000 had been ordered to be applied from that day to the extinguishment of the bonus. In this report of July, 1821, this appropriation is increased to $60,000 semi-annually, to commence from 1st January thereafter, and made applicable to the extinguishment of the bonus, the premium on the stock, and to meet any losses on the banking houses; and the only means thus applicable, or that were ever so applied, according to accounts and statements made by the Bank, were these appropriations. Let it now be seen to what they amount.

$45,000, semi-annually, from 1 July, 1817, to 1 July, 1821, inclusive, is - - - - - - $405,000
And $60,000, semi-annually, from 1 January, 1822, to 1 January, 1822, inclusive, is - - - - 1,140,000

Making in all - - - - $1,545,000

Hence it appears, that $1,545,000 has been so *judiciously* and *fortunately* applied, that it has extinguished a debt of $2,257,172.05. In other words, a little above two and a quarter millions of debt has been extinguished by the payment of little more than a million and an half! This sum of $551,292.05 stated as above to have been

applied to the extinguishment of the cost of Banking houses, has never appeared on any of the monthly statements until February last. How it came suddenly to be exhibited in that statement, for the first time, and how it comes now to be stated to have been thus applied, no where appears.

Your memorialist believes he has made good all his propositions.—He has shewn—1st, that he was informed by the Bank officers of the improprieties introduced by the President—2dly, that that information was correct in all the particulars he has detailed—and 3dly, that the interference of your memorialist produced a change in the practice, and checked these irregularities during his term of service. That they have been since revived and continued and increased—that assumptions of power far more unwarrantable, and acts of abuse far greater than any disclosed by him, have since and recently appeared in the management of the Bank, has been now proved by the most undeniable evidence. He has shewn how the rule applied to discredit him, would operate upon those by whom he has been assailed, thus manifesting as well the inconsistency as the injustice of those who have attempted to "*substitute trifles light as air, of suspicion, in the place of fact, and to impute fraud, forgery and perjury, where they cannot be proved.*"

Your memorialist is aware that he has trespassed greatly upon the patience of this Honorable House; though he has omitted many things important to justify himself, and to confound those who have most wantonly and unjustly endeavoured to sacrifice him to the wrath of a great and powerful institution, that believes itself strong enough to prostrate all who will not bow down to its mandates. He trusts he will be excused, when it is considered to what a contest he has been called, who have been his assailants, and that every thing that can make his life a curse, and his name hateful forever, has been attempted to be fastened upon him. That life, notwithstanding its vicissitudes, has been crowned with many blessings for which he has cause to be thankful, and that name he has hitherto borne, through all his trials, without a reproach. For every thing valuable to himself, and to those dearer to him than himself, he has struggled, not in despair, but in hope, confiding in the strength of truth, and the justice and intelligence of those to whom he appeals. It remains to be seen whether a power has been created in our country, against whose arts and arrogance and enmity, no humble and obscure man shall stand, whose means of accomplishing its purposes are fearful and boundless, and which stops at nothing to increase the number, and excite the ardour of its friends, or to crush into ruin and disgrace those whom it cannot silence or seduce. If your memorialist shall be delivered up as a victim to the shrine of such a power, let all who are not prepared to bend before it, remember that his fate may be theirs.

R. M. WHITNEY.